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PRESERVATION OF HISTORIC INTERIORS:
RETAINING FIXTURES IN SIGNIFICANT BUILDINGS

Xavier Robert Ávila

A THESIS

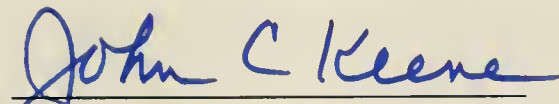
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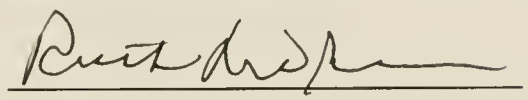
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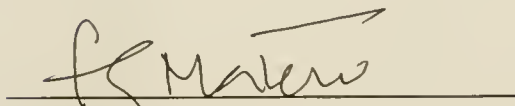
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ACKNOWLEDGMENTS

I was distressed to see so many wonderful historic buildings around Los Angeles stripped of their fixtures in the days following the Northridge Earthquake. It seemed as though nothing could stop the salvage dealers from collecting their booty--not barricades, not security guards or the police, not the red-tag placards that served notice of structural hazards, not even additional earthquakes. The earthquake not only erased local history through direct destruction, but contributed indirectly by forcing tenants and owners out of their homes, leaving the structures vulnerable to looting. Sometimes, the work of the salvage dealers was more destructive than the work of Mother Nature.

I while their would like to express my deepest appreciation to the following people for their guidance and assistance in helping me research and prepare my thesis: my advisor John Keene, my reader Ruth O'Brien, Barbara Hoff, and Sally Holloway.

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CHAPTER ONE

INTRODUCTION

In 1978, historic preservationists throughout the country hailed the United States Supreme Court's decision in *Penn Central Transportation Co. v. City of New York*¹, upholding New York City's Landmarks Preservation Law, as a major victory for the preservation movement.² "The *Penn Central* case 'firmly established that the protection of cultural, historic, aesthetic, and architectural assets is an aspect of the public welfare that the states are empowered to protect pursuant to police power.'"³ Because the building interior was not at issue, the Court reviewed only those constitutional questions related to regulation of the building exterior. The validity of the New York landmarks law under *Penn Central* confirmed protection only to building exteriors. The exclusion has left the designation of interiors without the "firmly established" direction for interpretation that exterior designations enjoy. Hence, the status of cultural, historic, aesthetic, and interior architectural assets remains vague in comparison. Building interiors are still waiting for their "Penn Central."

¹438 U. S. 104 (1978).

²Albert H. Manwaring. "American Heritage at Stake: The Government's Vital Interest in Interior Landmark Designations." *New England Law Review*, Fall 1990, v. 25 n.1, p. 291.

³*Ibid*, p. 292.

The current philosophy of historic preservation is to extend the regulatory protections granted to building exteriors to significant interiors of historic and cultural value. “Perhaps the most balanced statement of why government should intrude in the private sector as patrias-protector of architecture from a bygone era is that architecture educates the nation’s citizenry.”⁴ The appearance of buildings and the presence of original materials helps facilitate an understanding and recognition of segments of the nation’s historic and socio-cultural past. “As an educational tool, architecture accurately records the lifestyle and work patterns of the past, and reveals as much about societal organization, period-specific craftsmanship, and engineering techniques as it does about aesthetics and taste.”⁵ No other part of architecture can provide as intimate a view into the lives of past generations or reflect their living standards as well as the building’s interior.

Just as they were in the past, historic fixtures and interiors today are still broken up and placed in museums, severing the relationship between the interior and exterior architecture. It was argued that this was the only method of protecting significant interiors from decay, predatory salvage and antique dealers, and vandalism. Eventually, the preservation movement realized that this approach was as destructive as demolition. A historic building with its interior torn up may be demolished by its owner since it may be too expensive to reconstruct the interior and return the structure to service. There are famous examples of owners replacing historic interior fixtures with recreations after selling the valuable originals to antique dealers and museums. Sometimes entire rooms were sold.⁶ In both cases, the result is that preservation *did not* occur.

⁴Jessica L. Darraby. *Art, Artifact and Architecture Law*. New York: Clark Boardman Callaghan, 1984, p. 14:4.

⁵Ibid, p. 14:5.

⁶The replication of an entire room, including paneling and fixtures, was installed in the second floor parlor of the Samuel Powell House, Philadelphia. The original was acquired by the Philadelphia Museum of Art for inclusion in the institution’s permanent collection. Other famous American museums which have

Over the last half century, the federal government, states, and municipalities have enacted legislation designed to preserve historic and architectural treasures from the press of development. The first level at which designated landmarks receive protection is at the state level. State legislation takes two basic forms, and many states have adopted both. The first provides for registration of landmarks, with many states using the National Historic Preservation Act (NHPA) as a model. States using NHPA criteria for their own registers of historic properties ensure federal funding for their programs. The second is enabling legislation that delegates to municipalities the police power of the state to regulate the preservation of historic or architecturally significant private property. "This type of legislation is more important than registration programs for protecting historic or architecturally significant structures because it allows municipalities to require private property owners to preserve their properties."⁷ According to recent surveys by the National Trust for Historic Preservation, virtually all states and many localities have on their books some kind of preservation regulation.⁸ While regulation of designated landmarks has become a common state or municipal activity, most statutes and ordinances pertain specifically to building exteriors.⁹

Concern for the protection of interiors is becoming widespread, with preservation battles occurring in neighborhoods and cities around the country from coast to coast. A survey by the City of Boston's Law Department "revealed that sixteen cities and the District of Columbia have designated or were regulating interiors."¹⁰ The expansion of historic resource legislation to include interiors has resulted in additional court challenges to

assembled period rooms in their collections include the Metropolitan Museum of Art and the Getty Museum.

⁷Scott H. Rothstein, "Takings Jurisprudence Comes in from the Cold: Preserving Interiors through Landmark Designation," *Connecticut Law Review*, Spring 1994, v.26 n.3, p. 1109.

⁸Darraby, p. 14:3.

⁹Rothstein, p.1110.

¹⁰Manwaring, p. 293.

historic preservation ordinances, with litigation proving more difficult for preservationists than cases concerning exteriors. Property owners argue that such mandates are a greater intrusion on property rights.¹¹ This raises a significant question: What type of legislation or programs could provide effective protection against the dismantling of significant interiors by their owner or looting by others?¹²

The purpose of this thesis is to examine the suitability of the historic preservation ordinances in Los Angeles and Pasadena for protecting the interiors of historic-cultural resources against fixtures removal. Chapter Two discusses the history and importance of this preservation issue through review of four well-publicized preservation battles in Southern California. Chapter Three explores the question of how we should define the elements of a significant interior for protection against dismantling and looting. Chapter Four reviews and evaluates the ordinances of Los Angeles and Pasadena, and other available preservation tools used in conjunction with municipal ordinances. Finally, Chapter Five summarizes the four narrative examples and available preservation techniques, the effectiveness of the local ordinances of Los Angeles and Pasadena, and concludes with programs that may be suitable to protect interiors in conjunction with existing municipal law. This thesis will not attempt to provide statutory solutions, as legal writing at such a technical level is beyond scope of this work. Instead, desire of the author is to bring attention to the vulnerability of historic resources under existing conditions of the local ordinances.

¹¹Rothstein, p.1111.

¹² For the purpose, dismantling is defined the action of fixtures removal by a longtime owner of a historic building. Looting, in contrast, is defined as action by tenants who remove fixtures at the time of departure from the structure or the removal of fixtures by persons who purchase a historic resources with the intent to market fragments of the structure because of the high monetary worth of the individual antique fixtures.

CHAPTER TWO

HISTORY AND MAGNITUDE OF THE PROBLEM

The Issue of Looting

As long as people desire to have the atmosphere and attributes provided by period fixtures in a modern home or building, a historic building with fine architectural and design appointments is a potential target for dismantling. This is especially true if the structure is designed by a master architect who also created fixtures and furnishings for his clients. The fixtures designed by Frank Lloyd Wright and the Greene Brothers appear in private collections and in museums around the country, many of which were designed as part of a comprehensive design for specific commissions.

Significant Examples from Southern California

The four examples that provide the setting for this thesis represent a cross section of historic structures at risk: the venerable local department store, the downtown church, the residence of prominent citizens, and local historic district. Each represents a different type of historic structure threatened under a distinct set of circumstances. However, they all share a common theme: the owners or tenants have removed interior fixtures of substantial historic or monetary worth, thereby compromising the historic integrity of the

structure. All historic interiors are potentially vulnerable to dismantling, looting or alteration. Threats can come from a myriad of directions and prove that the designation of landmarks or a significant reputation does not preclude a building from meeting disaster. As will be demonstrated, historic preservation ordinances may be insufficient at preventing the destruction of historic interiors even if local government has regulatory powers preventing such action. Instead, layered protections of multiple programs extended to fixtures and significant interiors may assure that any loopholes present in one particular program will be closed by another.

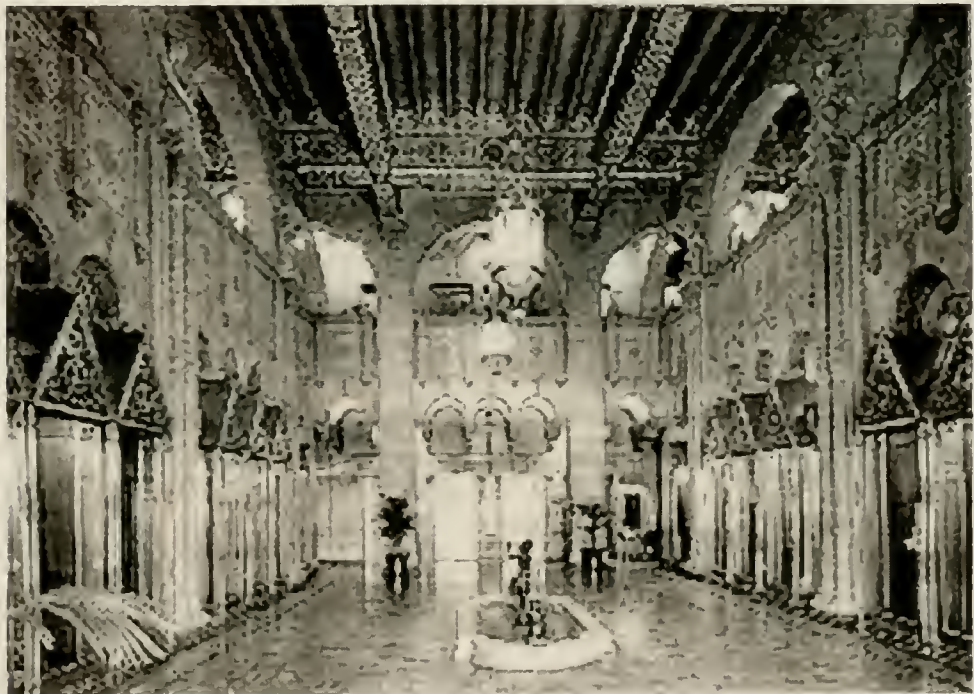


Figure 1. Buildings with significant lobbies, such as the 1925 Fine Arts Building in Los Angeles (listed on the local historic register for its exterior only), are potentially at risk to have their interiors dismantled or altered without statutory protection restricting such actions by property owners. (Source: City of Los Angeles Cultural Affairs Department. *Historic Cultural Monuments*.)



Figure 2. Bullock's Wilshire. Wilshire Boulevard Facade.
(Source: Margaret Davis. *Bullock's Wilshire*. Los Angeles:
Balcony Press, 1996, p. 111.)

Bullock's Wilshire Department Store, Los Angeles

The Twenties represented a period of phenomenal growth in Southern California, both in terms of population and horizontal expansion through the built environment.¹³ The decade is considered by many to be the most important period for Los Angeles' architectural history, a time when the city was booming and developing a sense of identity as a modern place with a quality of life that no other American city could match.¹⁴ This

¹³David Gebhard and Robert Winter. *Architecture in Los Angeles: A Compleat Guide*. Salt Lake City: Peregrine Smith Books, 1985, p. 21.

¹⁴Moffat, Susan. "Bullock's Wilshire Closes Doors Today." *Los Angeles Times*, 13 April 1993, v. 112, p. B3, col. 1.

era for Los Angeles parallels the history of other American cities for growth and architecture--San Francisco during the Victorian period or Philadelphia during the 18th century.¹⁵

Built in what was then the suburbs, the Bullock's Wilshire department store used the automobile as a primary design element. The copper tower functioned as a beacon to attract motorists to the store, and its main entrance was placed facing the private, gated parking lot or "motor court." When patrons entered the Bullock's Wilshire on the eve of its grand opening, they entered a modern department store that "eclipsed everything else of its kind."¹⁶ The interior decoration featured Bauhaus-influenced clocks, vibrant murals, and glass and marble walls. "Each feature and detail of the building bespoke the confidence and optimism of Los Angeles in 1929: its sculpted mass rising ten stories from a base of five, reflective of the new City Hall downtown; the copper siding against beige cast stone, as if the building were an oversized art object half encased in metal; the frosted glass and dark tropical wood interior; the disc and torch branch chandeliers ready to light an Art Deco Meistersinger with festival radiance."¹⁷ Pauline Schindler, architectural critic stated:

"It constitutes an unmistakable advance in the movement of contemporary design. Much of its effect is due to color and light; and it must be actually seen for its artistic significance to be realized."¹⁸

The team responsible for assembling this premiere Art Deco building received numerous accolades for its work, and the efforts of the interior designers were widely heralded. "Designer Jock Peters, decorator Eleanor Le Maire, and the design firm of Feil &

¹⁵ Ibid.

¹⁶ Margaret Leslie Davis. *Bullock's Wilshire*. Los Angeles: Balcony Press, 1996, p 7.

¹⁷ Ibid, p. 10.

¹⁸ Davis, p. 47.

Paradise created the sumptuous high style interiors that soon became the talk of the town.”¹⁹ “In concert with Peters, Le Maire built a special workshop with close to 100 skilled artisans to create the exact effects in metal, wood, glass, tapestries and leather that the team desired.”²⁰

The premiere Los Angeles architectural establishment of the time, the father-and-son firm of Parkinson & Parkinson designed the Bullock's Wilshire structure.²¹ Some of the most significant city landmarks are creations of the Parkinsons: the Los Angeles Athletic Club²² (with Edwin Bergstrom) 1911, the original campus of the University of Southern California (begun in 1919), the Memorial Coliseum²³ (1923), the City Hall²⁴ (with Albert C. Martin) 1928, and Union Station²⁵ (1939). All are recognized worldwide as icons of Los Angeles.

The interior spaces became the best known aspect of the Bullock's Wilshire experience. *La Directoire* and the *Louis XVI* period rooms featured warm tones of ivory and gold, sparkling chandeliers and gilded accents. The rooms were an interpretation of Marie Antoinette's salons at the Petit Trianon at Versailles. Other boutique rooms, such as the French Rococo *Chanel Room*, the Art Deco *Fur Atelier*, the Frank Lloyd Wright inspired *Menswear Department*, were all considered high achievements in style and design. The designers had furniture, fixtures and artwork created specifically for each of the major

¹⁹Ibid, p. 39.

²⁰Ibid, p. 45.

²¹Los Angeles Historic-Cultural Monument # 56. Declared June, 1968. Listed on National Register of Historic Places in May, 1978.

²²Los Angeles Historic-Cultural Monument # 69. Declared September, 1970.

²³Declared a National Historic Landmark, a State Historical Landmark, and listed on the National Register of Historic Places in July, 1984.

²⁴Los Angeles Historic-Cultural Monument # 150. Declared March, 1976.

²⁵Los Angeles Historic-Cultural Monument # 101. Declared August, 1972. Listed on the National Register of Historic Places in November, 1980.

rooms, making the interiors and fixtures as integral to the design of the store as the architecture.

Bullock's Wilshire became part of the I. Magnin chain in 1988 through acquisition by R. H. Macy & Co. The parent firm filed for bankruptcy in 1992. In February of that year, Macy's announced that it was closing eight I. Magnin and Bullock's stores in California, including the Bullock's Wilshire. In April 1993, the department store once lauded as a "contemporary cathedral of commerce" fell victim to a troubled economy and a declining neighborhood. Macy's also cited the erosion of customers caused by the 1992 civil unrest following the Rodney King verdicts during which the store was vandalized.

At an August 1993 liquidation sale, it was discovered that Macy's had removed all of the building's lighting fixtures and antique furniture and relocated the pieces to other I. Magnin or Bullock's stores around California. Among the removed pieces were all of the chandeliers, sconces, and Neo-classical furniture from the second floor period rooms and the Lalique crystal chandeliers from the first floor. "Because so many of the pieces were original to the building and had been specifically designed for its individual rooms, the loss was particularly devastating"²⁶

Bullock's Wilshire had been designated as Los Angeles Historic-Cultural Monument #56 in 1968 and was included on the National Register of Historic Places in 1978. However, the Los Angeles municipal preservation law only regulated the building exterior for which Bullock's Wilshire is designated, not the interior or original fixtures. Therefore, the removal of interior fixtures was not an action that required city approval nor was it an action that was within the city's power to prevent.

²⁶ "Macy's Returns Bullock's Wilshire Fixtures and Furnishings." *Los Angeles Conservancy News*, v. 16, n.4. July/August 1994.

City officials did not want the missing fixtures forgotten in Macy's ongoing bankruptcy hearings. After a very public preservation battle and PR campaign waged by the Los Angeles Conservancy and the City, Macy's agreed to return all of the vintage fixtures to the Los Angeles store. This is the first known voluntary restoration of fixtures by a party not legally required to do so. Thus, it was action by preservationists, not the regulatory powers of the Los Angeles preservation ordinance that restored the fixtures to the Bullock's Wilshire. However, when Macy's defaulted on its lease for the Bullock's Wilshire, the retailer lost all statutory claim to realty and trade fixtures under California law.²⁷ The retailer would have been hard pressed to prove its claim to keep the fixtures it illegally removed from the department store if the issue had gone to court.

Macy's kept two bronze and Lalique crystal chandeliers that were installed in the department store in 1977. The prized chandeliers were relocated to the Bullock's Wilshire after their original location, the Oviatt Menswear store in Downtown Los Angeles was converted into a restaurant. The c. 1928 Zigzag Moderne chandeliers were created in France specifically for inclusion in that clothier's sales room. At the Bullock's Wilshire, they became an important contributing feature of the Perfume Hall, which was designed in the same French influenced architectural mode. A relevant issue that will require additional research but not covered within this thesis concerns additional fixtures brought into a building: Should introduced articles be extended protection under the scope of historic-cultural ordinances if contribute to the historical interpretation of significant buildings?

²⁷Although "trade fixtures" are normally removable by the tenant on termination of the lease, provisions to the effect that fixtures, including trade fixtures, will belong to the landlord on the termination of the lease for breach by the tenant are valid and controlling. *Goldie v. Bauchet Properties* (1975) 124 Cal. Rptr. 161, 540 P.2d 1, 15 c.3d 307.



Figure 3. Louis XVI Period Room, Bullock's Wilshire. (Source: Margaret Davis. *Bullock's Wilshire*. Los Angeles: Balcony Press, 1996, p. 58.)



Figure 4. Designer Jock Peters looked to Frank Lloyd Wright's concrete block architecture for inspiration in designing the Menswear Department at Bullock's Wilshire. (Source: Margaret Davis. *Bullock's Wilshire*. Los Angeles: Balcony Press, 1996, p. 57.)



Figure 5. The Fur Atelier was considered to be one of the store's most extraordinary rooms. The salon was decorated with sofas upholstered in coral velour edged in Chinese vermilion and cork walls in contrasting shades of brown. Opal-glass lanterns with tassels hung from the ceiling. (Source: Margaret Davis. *Bullock's Wilshire*. Los Angeles: Balcony Press, 1996, p. 59)



Figure 6. The main facade of the Cathedral of St. Vibiana as remodeled by John Austin in 1922. Photograph dates from 1996. (Source: USC Department of Geography, Photograph Archive.)

Cathedral of St. Vibiana

In 1859, a papal grant authorized Bishop Thaddeus Amat's request to move his residence and the center of ecclesiastical activities from Monterey to Los Angeles. "The Bishop appointed an advisory committee to raise funds for a cathedral which was to be named in honor of St. Vibiana according to the personal wish of Pope Pius IX."²⁸ "The church was meant to emulate the Spanish Baroque style of San Miguel del Mar (1755), a church in Barcelona that Amat had attended as a youth."²⁹ No plans for a permanent church were drawn until 1868 when civic minded resident, Ozro W. Childs, donated a parcel of land for its construction. Ezra F. Kysor, one of the city's earliest professional architects, designed a church with a traditional basilica plan. The belfry, located at the rear of the structure was considered one of the church's finest features, and for a long time it was a landmark for the city. In 1893, the Dominguez family donated the permanent high altar

²⁸Thomas R. Vreeland & Associates. *The Cathedral of St. Vibiana: A History and an Appraisal*. Prepared for Cathedral Square, Inc., Los Angeles, CA. May 1, 1996, p. 12.

²⁹Ibid.

of Parian and Carrara marble and Mexican Onyx. In 1922, the church underwent a major rebuilding of the main facade and interior. The project included space for a new organ, marble side altars, new steps and railings, a new permanent pulpit of white Carrara marble, and a semi-circular baptistery added to the south end of the newly created narthex.

At this time, new windows were added and the sills of six original windows raised to provide room for new, oak veneered paneled confessionals. One of the windows, “The Flight into Egypt” is renowned, and its pictorial composition is reproduced in other media. “The most important decorative defining feature, which unifies the interior ornamental scheme while enriching it symbolically, is the extensive stenciling throughout the interior on column spandrels, walls, in gallery corners, and on ceilings.”³⁰ Notable among the various designs is the use of the cross motif, as well as running bands of abstracted sacred ornament. Distinctive wall candlesticks signify the building’s status as a consecrated cathedral. In the Vreeland Report³¹ of 1996, it is stated that “today the church layout still resembles the 1922 plan”³² and “remains today essentially the same wooden church that Ezra Kysor built 121 years ago.”³³

Since 1991, the Los Angeles Conservancy has worked with the Archdiocese of Los Angeles to find a preservation solution for St. Vibiana’s after Cardinal Roger Mahoney

³⁰Portia Lee, (Architect, Los Angeles Department of Building and Safety) to Barbara Hoff, (Director of Preservation Issues, Los Angeles Conservancy.) February 3, 1996. St. Vibiana Case File. Los Angeles Conservancy, Los Angeles, CA. Photocopy.

³¹The Archdiocese of Los Angeles commissioned Thomas R. Vreeland & Associates to prepare a narrative history of St. Vibiana’s Cathedral, *The Cathedral of St. Vibiana: A History and an Appraisal*, to provide background information for a joint Archdiocese/Los Angeles Conservancy Workshop on clarifying the old church’s future. The report is intended to inform architects with historical and developmental background, and the environmental impact report. Although attempting to assert the cathedral has little historical or architectural significance, the report proves otherwise.

³²Vreeland, p. 17.

³³Ibid, p. 56.

expressed an interest in demolishing the old church to make way for a grander, modern cathedral. Since then, St. Vibiana's suffered structural damage during the 1994 Northridge earthquake, which measured 6.9 on the Richter Scale. The City of Los Angeles never gave St. Vibiana's a comprehensive inspection after the earthquake. Instead, the City yellow tagged the church, advising of damage but not restricting occupancy. The Archdiocese held services in the damaged church for two years until the Cardinal used a 3.5 aftershock to promote plans for a new cathedral. The City declared the bell tower a public threat and mandated abatement. The Archdiocese responded by initiating demolition of the bell tower without filing for the required permit.

The demolition of any building in Los Angeles requires a permit from the city Department of Building and Safety, even if demolition is a mandated action in emergency situations. The Conservancy was successful in obtaining an injunction to stop the demolition in progress citing non-compliance with city statute. The action would touch off one of the most heated preservation battles in city history. In addition, lawyers representing the Cardinal argued that removing the historic designation of the church would eliminate any statutory mandates for environmental review pertaining to historic resources. The Archdiocese then attempted to lobby the City Council and the Mayor to void the church's historical designation, and state representatives to prevent future landmarking of religious property. The City Council stripped St. Vibiana's of its historic designation, ignoring a recommendation by the Cultural Heritage Commission to maintain the historic designation of the cathedral.

After a volley of requests for demolition permits and injunctions barring such action, the California Superior Court finally ruled that "the community is entitled to a public environmental review process before any plans for demolition of the historic cathedral

can be considered.”³⁴ The judge granting the injunction sided with the Conservancy, requiring an environmental impact report to be completed before demolition could proceed, as required by state law the California Environmental Quality Act when development projects may have a potential effect on the environment (historic resources).

Today, the cathedral sits abandoned and stripped of its historic fixtures. The Archdiocese plans to incorporate the removed artifacts into a new cathedral on a hilltop site adjacent to the Civic Center overlooking the old church. The stenciling, molded plaster, and ceiling frescos are also integral and significant fabric of the building interior in addition to the removable fixtures. However, these elements have been left behind in the boarded-up church. This raises an additional issue for interiors preservation, not just in the case St. Vibiana’s Cathedral, but for all historic interiors: To what degree may government regulate the interiors of historic resources and demand protection for historic surface treatments? If the church is rehabilitated, the removed fixtures can be returned. Painting over decorative surface treatments or their final destruction will erase a significant element of the design history of the cathedral and is as hurtful as the removal of fixtures. For the purpose of this thesis, the discussion of protecting significant interiors will now be limited to those issues only as they relate to fixtures removal in historic resources.

The St. Vibiana story is very similar to that of the Bullock’s Wilshire. The nomination to the city Historic-Cultural Monument Register extended only to the building exterior, leaving the interior exposed to dismantling. Unlike the department store, to argue that the fixtures removed were significant to the design of Ezra Kysor ignores the church’s role as a community landmark cherished by prominent citizens over its lifetime. Neither the Cultural Heritage Commission nor the Conservancy had regulatory tools to cite that

³⁴“Historic Designation of St. Vibiana Cathedral Under Attack.” *Los Angeles Conservancy News*, v. 18, n.4. July/August 1996.

would require architectural review or require the return of removed fixtures. Again, the Cultural Heritage Ordinance does not place fixtures removal within the scope of municipal review. Therefore, very little can be done to demand their return to the old cathedral. As of this writing, the ultimate fate of the church is uncertain. Alternate use proposals are being developed by the Conservancy.



Figure 7. Interior of the cathedral of St. Vibiana, c. 1945, reflecting the alterations of 1924. The interior remained largely unchanged since the date of this photograph, (with the exception of lighting updates, as stated in the Vreeland Report) until closure and subsequent dismantling in 1995. (Source: USC Department of Geography, Photograph Archive.)



Figure 8. Close-up of the high altar of the Cathedral of St. Vibiana, c. 1945. (Source: USC Department of Geography, Photograph Archive.)



Figure 9. Main facade of the Cathedral of St. Vibiana, c. 1896, as designed by Ezra Kysor. (Source: USC Department of Geography, Photograph Archive.)



Figure 10. Side perspective of the Cathedral, July 1996. Antique stained-glass windows have been removed for installation in new church structure. Photo by X. R. Ávila.

The Robert R. Blacker and Henry M. Robinson Residences

In the last decade, two cases in Pasadena brought to light the vulnerability of historic residences to dismantling by their owners. The first was the Robert R. Blacker House, which demonstrated that the reputation of high achievement in architectural and artistic design was not a shield against potential threats. In fact, it could act as a beacon to antique profiteers. The second involved the Robinson House and a test of the newly strengthened municipal historic preservation ordinance aimed at protecting the works of master architects Charles Sumner and Henry Mather Greene from dismantling. Both situations involved residences designed by Greene & Greene.

Pasadena is closely associated with the development Arts and Crafts movement in California. Among the leading practitioners, there were few as thoroughly and naturally devoted to its principles as California architects, Greene & Greene.³⁵ The brothers were engaged in all structural and material aspects in their commissions for clients, designing everything from lamp shades to rugs to garden sculpture and landscape design. "In their twenty years of practice, the Greenes established an American architecture so fresh that it spread from Pasadena to all of Southern California and then over the entire country as the California Bungalow style....The individual character of their work evolved from a rich and deep study of wood, from an appreciation for the Japanese, a respect for the Swiss, a love of nature and natural materials; and it was expressed in the bold use of heavy timbers, projecting rafters, broad sloping roof lines and overhanging eaves, extensive masonry walls, stained board and batten siding, and the incorporation of the garden into the total design."³⁶

³⁵Randell L. Makinson. *Green and Greene: Architecture and Related Designs*. Salt Lake City: Peregrine Smith Books, 1979, p. 12.

³⁶Esther McCoy. *Five California Architects*. New York: Reinhold Book Corporation, 1960. Reprint Los Angeles: Hennessey and Ingalls, Inc., 1987, p. 103.



Figure 11. Blacker House, Pasadena California. Date unknown, however, the house appears very much the same today. (Source: Randell Makinson. *Greene and Greene: Architecture as a Fine Art*. Salt Lake City: Peregrine Smith Books, 1977, p. 151.)

Robert R. Blacker Residence

Robert R. Blacker was a lumber magnate from Michigan who retired to Pasadena in 1906. "During the brief period between 1907 and 1909, Greene & Greene created seven designs which reached such a high level of craftsmanship and sophistication that they have rarely been equaled."³⁷ Because of his understanding and appreciation of woods, he was particularly sympathetic client for the Greenes. The Blacker House demonstrates the many refinements of the Greenes' mature style, from the decorative details incorporated within structural elements to the thematic details found in furniture and fixtures created exclusively for the house. "Replete with teak and mahogany paneling pegged with ebony and teak, stained glass windows, hand-crafted lighting fixtures, bas relief panels in subtle organic motifs, banks of French doors, sleeping porches, and balconies, the residence became a showpiece for the use of rare and varied woods and the exquisite design and craftsmanship for which the brothers have become internationally known."³⁸ "All of the

³⁷Randell L. Makinson. *Greene and Greene: Architecture as a Fine Art*. Salt Lake City: Peregrine Smith Books, 1977, p. 150.

³⁸"Pasadena Buildings Endangered and Preserved: The Robert Blacker House." *Pasadena Heritage*, v. XI, n. 1. Fall 1985.

furnishings were designed for the house, and oriental carpets and auxiliary accessories were personally selected by the Greenes in close association with Mr. and Mrs. Blacker.”³⁹ The high level of craft work included light switches carved from ebony and set into mahogany plates to complement stained glass. “The detailing of the paneling throughout the dining room was so carefully worked out that it was impossible to determine which were doors and which solid panels.”⁴⁰

In 1986, Texas millionaire Barton English purchased the Blacker House without intending to establish residence in Pasadena. Shortly after the close of sale, Pasadena Heritage learned that a high profile New York antique dealer was at the estate “overseeing removal of most of the light fixtures from the house for shipment to New York and Texas.”⁴¹ Mr. English had light panels, lamps and windows removed from the house. Many of the disconnected fixtures were placed in the private collection of Mr. English and the rest sold.

Because of its international reputation and the deep appreciation by the previous owner, the Blacker House “was never considered at risk.”⁴² It was not listed as a National Register Monument or on the city directory. “While a National Register listing would not protect the Blacker House or prevent the removal of its fixtures, the honor would

³⁹Makinson. *Architecture as a Fine Art*, p. 154.

⁴⁰McCoy, p. 129.

⁴¹“Pasadena Buildings Endangered and Preserved: The Robert Blacker House.” *Pasadena Heritage*, v. XI, n. 1. Fall 1985, p. 1.

⁴²*Ibid*, p. 2.

reinforce the high level of significance this residence commands in the history of American architecture.”⁴³

Pasadena Heritage tried to negotiate an option agreement which would give the organization the right for a six month period to re-market the house on the condition that all the light fixtures be returned. Mr. English refused to negotiate with Pasadena Heritage and the City of Pasadena after several months. The outpour of public concern did not deter further looting of the house, as doors and larger pieces of stained glass widow displays were shipped to New York at a later date. In their place, replicates were installed and the house was put on the market. It remained unoccupied for many months before finally being purchased in 1991. The removed fixtures never returned to the Blacker House. Thus, the incident brought the issue to public attention and exposed the vulnerability of historic buildings in Pasadena.

⁴³Ibid.



Figure 12. Blacker House Dining Room, with chandelier suspended from leather straps. Date unknown. (Source: Randell Makinson. *Greene and Greene; Architecture as a Fine Art*. Salt Lake City: Peregrine Smith Books, 1977, p. 154.)



Figure 13. Blacker House, detail of light shade in Living Room. Date unknown.
(Source: Randell Makinson. *Greene & Greene: Furniture and Related Designs*. Salt Lake City: Peregrine Smith Books, 1979, p. 100.)



Figure 14. Robinson House. The success of the overall design of the mansion greatly increased the reputation of the Greene Brothers. Date unknown. (Source: Randell Makinson; *Greene & Greene: Architecture as a Fine Art*. Salt Lake City: Peregrine Smith Books, 1977, p.119.)

Henry M. Robinson Residence

The 1905 Robinson House is recognized as being equal in all respects to the widely recognized masterworks of 1907-1909, and is fully representative of the brothers' talent.⁴⁴

"On the interior the Greenes continued their long love affair with wood, and their work of the previous two years was here further developed and refined."⁴⁵ "Throughout the interior and exterior, the Robinson House provided the Greenes with the prospect of integrating all parts of the structure and the furnishings; and they took full advantage of this opportunity."⁴⁶ Critical acclaim for the Robinson House design was so great that other clients of substantial means were soon attracted to the firm.⁴⁷

It was in the design of the lighting for the Robinson House that the Greenes began to move away from purely utilitarian uses. "It became a sculptured art form and had a major

⁴⁴Makinson, *Architecture as a Fine Art*. p. 118.

⁴⁵Ibid, p. 121.

⁴⁶Ibid, p. 43.

⁴⁷Ibid.

impact on the character of the interior spaces....Great chandeliers were designed of wood and Tiffany glass, and in the dining room there was an elaborate system of weights and leather straps which enables the fixture to be raised and lowered to suit the occasion.”⁴⁸

After the loss of the Blacker House fixtures, the City of Pasadena felt it was necessary to designate structures designed by Greene & Greene as a special class of historic-cultural monument (the “*Historic Treasure*”) because of the contributions to American domestic design that their work is renowned for. (As further evidence of their significance as architects, the Gamble House, also located in Pasadena and boasting an international reputation, was jointly listed on the National Register of Historic Places and declared a National Historic Landmark in September, 1971.) The revised preservation ordinance states that alterations to and removal of fixtures from Greene & Greene designed structures requires review and approval from the Cultural Heritage Commission. Previously, the ordinance did not grant the Commission authority to regulate interiors or defined fixtures removal as an action requiring design review approval from the Commission.

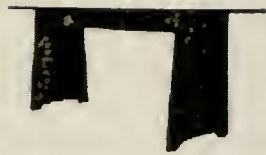
In 1993, when the heirs of owner Irene Combe Miller attempted to sell assets of the estate (including four Greene & Greene fixtures), they met with opposition from the City and Pasadena Heritage. The executor of the estate removed the four built-in fixtures (previously severed) from the residence without obtaining approval from the Cultural Heritage Commission, as mandated under the newly strengthened Cultural Heritage Ordinance. After the executor refused to postpone the estate auction and submit an application for review to the City of Pasadena, the issue quickly escalated into a legal issue, the first test of enforcement for the newly revised ordinance.

⁴⁸Makinson, *Architecture and Related Designs*. p. 40.

In January 1995, the Superior Court of California ruled in favor of the heirs of the estate. The court stated that the city did not have the authority to regulate removal of fixtures from Robinson House as authorized under the Cultural Heritage Ordinance despite the fact that the four fixtures had been expressly designed for the Robinson House. The court viewed the removed fixtures as personal property of the estate of Mrs. Miller, since the articles in question had been severed from the residence some forty years earlier. Thus, the City of Pasadena could not retroactively extend the Cultural Heritage Ordinance to articles severed so long ago. Furthermore, California law allows the property owner to claim fixtures as personal property upon severance from the freehold.



Figure 15. Robinson House Dining Room, pictured with chandelier before removal. Date unknown. (Source: Randell Makinson. *Greene & Greene: Architecture as a Fine Art*. Salt Lake City: Peregrine Smith Books, 1977, p. 120.)



Greene & Greene
Redwood Library Bench,
48 x 17 x 20 inches



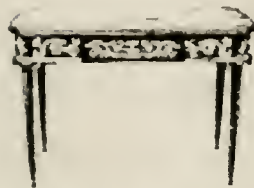
Greene & Greene
Cedar & Oak Hall Bench,
51 x 15 x 38 inches



Greene & Greene
Mahogany Hanging Cabinet,
38 x 57 x 11 inches



Greene & Greene Wood
Box, 54 x 24 x 24 inches,
Carved Wood, Bronze
and Copper Frame
Shade Lamp, ht. 38";
Chinese Bronze Lamp
with Mica Shade, ht. 32"



Louis XVI Dore Bronze &
Kingwood Bureau Plat,
c. 1850, signed Peyrat



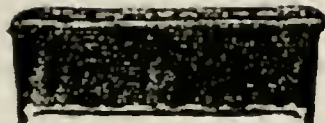
Pr. Louis XVI Gill Carved
Bergeres with Silk Upholstery



Louis XV Style Dore
Bronze & Floral Inlaid
Bombe Commode,
signed Nelson



Louis XV Provincial
Buffet, Pt. Cobalt Glass
& Enamelled Covered
Urns, ht. 21"



Louis XV Provincial Carved Bench
with Tapestry Cushion, wd. 72"



Regence Style Floral Inlaid
and Bronze Commode



Louis XV Provincial
Side Table



Louis XV Provincial
Diminutive Vitrine,
ht. 24"



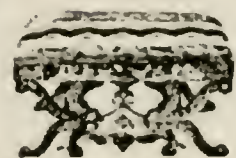
Two of Six Louis XVI
Dining Chairs



Pr. of Louis XVI Style
Fruitwood & Kingwood
Commodes



Pr. Louis XV Provincial
Fauteuils with Needlepoint
Upholstery, Pr. of Silver
Bronze Figures, signed
Pillet, French Bambour
Fronted side Cabinet



Chinoiserie Decorated
and Gill Carved Bench

Figure 16. A 1993 auction catalogue page advertising Greene & Greene furniture with other fine antiques. The mahogany hanging cabinet was removed from the Robinson House. (Source: City of Pasadena.)

Bungalow Heaven Historic District

In 1986, neighbors in Pasadena's Bungalow Heaven area banded together to organize the city's first official Landmark District. Bungalow Heaven "represents one of the last intact neighborhoods of affordable single-family homes built between the turn-of-the-century and the 1930s."⁴⁹ Representing the largest collection of Craftsman bungalows in Pasadena, the district encompasses many outstanding examples, including several of major historical significance. While few of the houses are architect-designed, builders created a remarkable neighborhood of high quality buildings displaying the rich vocabulary of the Craftsman style.

The objective of the district designation is to preserve the overall character of the neighborhood by preventing incompatible alterations to the residences located within the district boundaries. The Conservation Plan⁵⁰ provides design standards and alteration restrictions and addresses the problem of covering the wooden exteriors with stucco. Maintaining the appearance of these structures, with their characteristic shingle roofs and shingle siding, is a major concern for those dedicated to preserving the character of the neighborhood.

City legislation authorizing the creation of the Bungalow Heaven district was drafted at the same time as the Cultural Heritage Ordinance was under revision. The debate over property rights represented the greatest challenge to the historic district proposal. The resistance of some residents to district designation centered on the new proposed amendments to the Cultural Heritage Ordinance, which required architectural review for interior modifications to registered buildings. The Blacker House incident raised

⁴⁹"Bungalow Heaven District Effort Underway." *Pasadena Heritage*, v. XII, n. 10. June 1986, p. 6.

⁵⁰The City of Pasadena has a special design review requirements for new construction, demolition, and exterior alterations (when visible from the street). Because interior regulation is not a part of the design review component, the Conservation Plan will not be discussed in detail.

concerns for Bungalow Heaven residents that their homes would be held up to the same level of scrutiny as Greene & Greene designed structures. A compromise agreement between the City, Pasadena Heritage, property rights groups, and homeowners exempted interiors or parts of the house not visible from the street from design review. Restrictions placed on interiors extend only to Greene & Greene designed structures. Thus, the interiors of Bungalow Heaven's historic homes remain vulnerable to dismantling. However, stained glass windows along front facades are protected.

In calling attention to the vulnerability of interiors located within Bungalow Heaven under the adopted preservation plan, it is not the intention of this thesis to suggest that historic district Review Boards should have strict authority to regulate all interiors of district-registered buildings in the same manner as individually listed landmarks. Rather, it is to bring awareness to the fact that preservationists and local government may sometimes have to sacrifice facets of history to pacify property rights concerns. Like individual landmark exterior designations, interiors should be nominated based on established criteria that can be researched, evaluated, and verified based on the merit of the structure. However, without some form of protection, the interiors of modest domestic homes are in danger of being lost without record. The requirements of retaining a well trained staff to survey interiors on a city wide or district basis makes such a suggestion unrealistic. In addition, there is the issue of government access to private property—city officials must have permission or legal authority to enter private residences. Hence, until vernacular interior design reaches the consciousness of the public as a valuable historic resource deserving protection, this chapter of American cultural history will slowly disappear, and will continue to do so with each inappropriate or insensitive alteration.

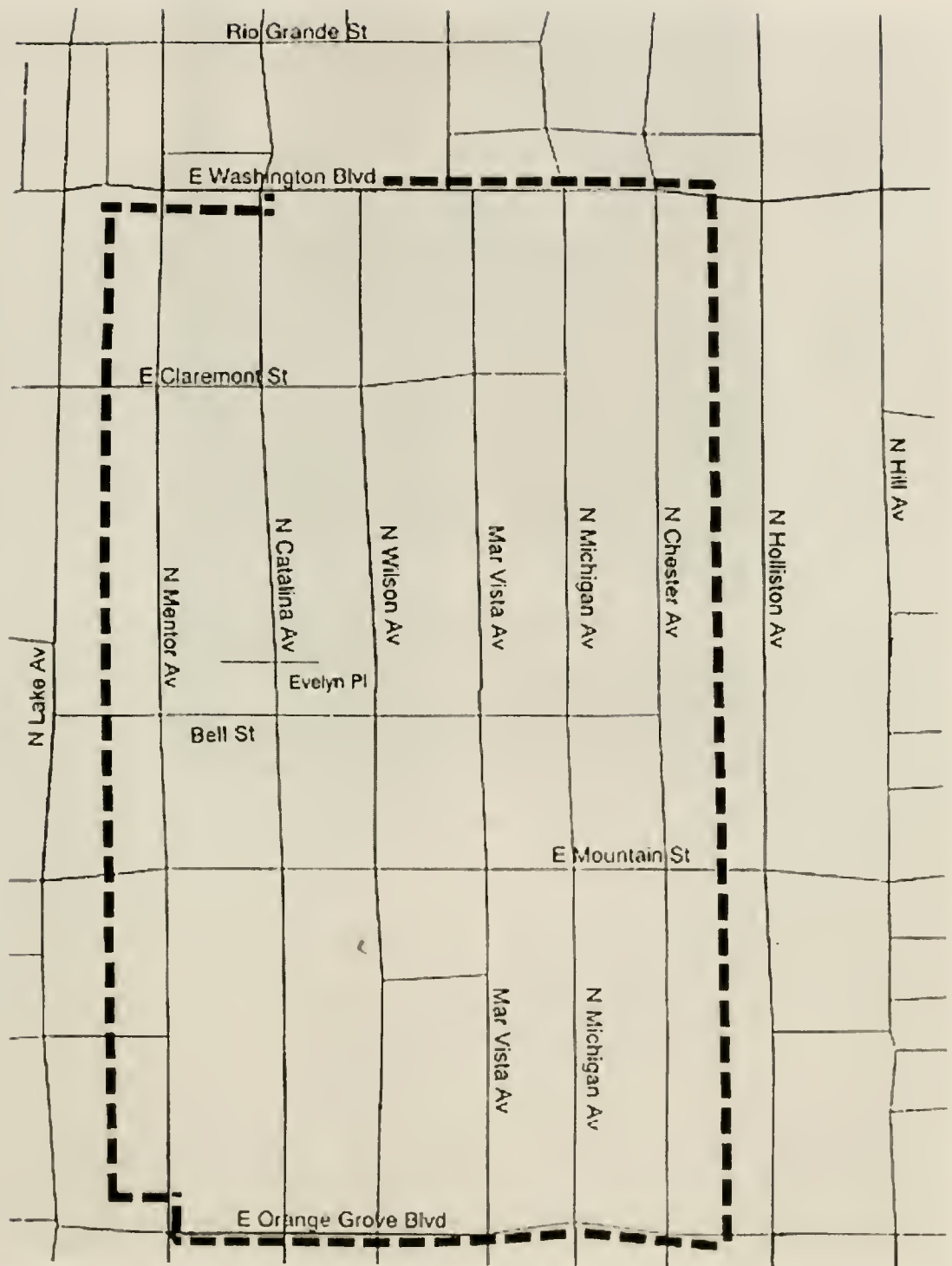


Figure 17. Map of Bungalow Heaven. (Source: Pasadena Design and Historic Preservation Counter, 1996.)



Figure 18.. Chalet inspired Craftsman style home in Bungalow Heaven. Photo by X. R. Ávila.



Figure 19. Residence on Catalina Avenue, Bungalow Heaven.
Photo by X. R. Ávila.



Figure 20. This Bungalow Heaven residence displays Japanese influence in the construction of the open timber gables. Photo by X. R. Ávila.

CHAPTER THREE

HOW SHOULD THE ARTICLES OF HISTORIC INTERIORS BE DEFINED FOR THEIR PROTECTION AGAINST DISMANTLING?

The inability of local government to stop owners from dismantling their historic buildings stems from weaknesses in the historic preservation ordinance. The ordinance may not authorize the local historic commission to regulate interiors or require approval for removal of fixtures. Conversely, strength can be found in the ordinance if the language of the statute contains explicit and comprehensive definitions of resources subject to regulation. A municipality may define interior fixtures as objects subject to protection through legislation if the preservation of interiors is a goal of the locality. State enabling legislation delegates to municipalities the police power to regulate the preservation of historic or architecturally significant private property.

Fixtures Defined

What constitutes a fixture? Black's Law Dictionary defines a fixture as "an article in the nature of personal property which has been so annexed to realty that it is regarded as a

part of the land.”⁵¹ In understanding the concept of fixtures, it is important to note that a fixture was originally a chattel, an article of personal property. “The chattel changed its status to an intermediate category, however, because it became so closely connected to the land or a building on land that it became regarded as part of the real estate.”⁵² The definition of fixtures under the California Civil Code is as follows:

“A thing is deemed to be affixed to the land when it is attached to it by roots, as in the case of trees, vines, or shrubs; or permanently resting upon it, as in the case of buildings; or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws; except that for the purpose of sale, emblements, industrial growing crops and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale, shall be treated as goods and be governed by the provisions of the title of this code regulating the sales of goods.”⁵³

“The common law of fixtures grew out of the needs of an agrarian society in which the land represented the basic source of wealth.”⁵⁴ The primary function of land was farming; any development of structures or machinery was ancillary to the primary function. “In that setting, any improvements made on the land became regarded as part of the real estate because they were affixed to the land.”⁵⁵ The only items that the farmer had to serve as securities for his debts were his land and any attached improvements. Any structure became viewed as real estate upon erection. “Large pieces of machinery, however, which could be viewed as personalty in their unattached condition, were, after attachment to the land, called fixtures and were thereafter treated as part of the land.”⁵⁶ Land, buildings and fixtures were all collectively used as collateral for repayment of the farmer’s debt if creditors insisted on a mortgage.

⁵¹Black’s Law Dictionary, p. 638 (6th edition, 1990).

⁵²Richard R. Powell. *Powell on Real Property*, p. 57:25.

⁵³California Civil Code §660. (Enacted 1872. Amended by Stats. 1931, c. 1070, p. 2259, §5.)

⁵⁴*Powell on Real Property*, p. 57:8.

⁵⁵*Ibid.*

⁵⁶*Ibid.*

In California, the Spanish Civil Code tradition has evolved to include the concepts of American common law, which is based on English legal tradition. The leading American case formulating the test for fixtures, and cited in California civil cases, regarded the classification of items as fixtures for tax purposes. In *Teaff v. Hewitt*⁵⁷ the Court held there that:

“The united application of the following requisites will be found the safest criterion of a fixture: 1. Actual annexation to the realty, or something appurtenant thereto. 2. Appropriation to the use or purpose of that part of the realty with which it is connected. 3. The intention of the party making the annexation, to make the article a permanent ascension to the freehold--this intention being inferred from the *nature* of the article affixed, the *relation* and *situation* of the *party* making the annexation, and the purpose or use for which the annexation has been made.”⁵⁸

While this case was important in developing a standard of review for determining trade fixtures subjects to taxation and mortgage liens, it is not a suitable parallel for items like decorative interior fixtures. Over the years, Louisiana Courts have reviewed cases regarding decorative fixtures removed from buildings. Louisiana administers law under the tradition of the French Civil Code, a system unique in the United States and exclusive to that state. This exposes comparison of American/California law and Louisiana law to potential conflict. However, Louisiana examples give insight into the value of comprehensive statutory definitions for fixtures.

In *Equibank v. IRS*,⁵⁹ the case centered on a New Orleans, Garden District mansion containing several antique crystal chandeliers worth as much as \$75,000 each. Two banks held mortgages on the residence, and the IRS imposed a general tax lien on the

⁵⁷*Teaff v. Hewitt*, 1 Ohio St. 511 (1853).

⁵⁸*Crocker National Bank v. City and County of San Francisco*. 49 Cal.3d; 264 Cal. Rptr. 139, 782 P.2d 278 (1989).

⁵⁹*Equibank v. IRS*, 749 F.2d 1176 (5th Cir. 1985), (Louisiana).

property as a security for overdue taxes. After the owners defaulted on the mortgage, the mortgagees foreclosed. Before a court ordered auction of the property could take place, the IRS took physical possession of the residence and removed the contents, including the chandeliers.

The chandeliers were disconnected from the electrical wiring of the house leaving exposed holes and wiring in the ceiling and walls. In addition, the bolts and other fasteners securing the chandeliers and fixtures were taken off and the units were lowered to the floor. “Persons effecting the safe removal had to have sufficient knowledge of electricity and electrical wiring to separate the internal wires from the unit wires without risking harm to the worker, or damage to the house and fixtures by touching the exposed wires or the ‘shorting out’ of the circuitry.”⁶⁰ This contrasts with simply removing a lighting unit by pulling the plug from a standard electrical outlet.

One mortgagee, Equibank, argued that under Louisiana State property law, “the chandeliers were component parts of the residence and were, therefore, immovables covered by the mortgage, which primed the general tax lien.”⁶¹ In federal district court, the IRS successfully argued that the chandeliers were movables not covered by the mortgage lien. The United States Court of Appeals for the Fifth Circuit reversed the lower court ruling and declared that the fixtures were indeed subject to the mortgage lien. The fifth Court held that antique chandeliers which were physically attached to internal house wiring through ceiling wiring were “component parts” of a residence subject to the mortgage lien on the residence. The IRS was not entitled to seize the chandeliers to satisfy unpaid taxes.

⁶⁰Equibank v. IRS, 749 F.2d 1176, p. 1117.

⁶¹M. Charles Wallfisch. “Property --Permanent Attachment--The Chandeliers Case. *Tulane Law Review*, Dec 1986 v.61 n.2, p. 440.

Under the Louisiana Civil Code, corporeal movables are considered to be immovable when they become *immovables by nature* or *immovables by destination*. “They were also considered immovables when they were attached to a building by the owner in such a way that their removal caused breakage.”⁶² Article 466, the basis of the decision in the above case stated:

“Things permanently attached to a building or other construction, such as plumbing, heating, cooling, *electrical or other installments*, are its component parts....Things are considered permanently attached if they can not be removed without substantial damage to themselves or to the immovable to which they were attached.”⁶³

Article 467, naming chandeliers by category stated:

“Wire screens, water pipes, gas pipes, sewerage pipes, heating pipes, radiators, electric wires, *electric and gas lighting fixtures*, bathtubs, lavatories, closets, sinks, gas plants, meter and electric light plants, heating plants and furnaces, when actually connected with or attached to the building by the owner for the use or convenience of the building are immovable by nature.”⁶⁴

The steps used to reach the conclusion that the chandeliers were immovables are found within the Civil Code. First, Article 462 states that component parts of immovables are immovables. Second, Article 466 states that permanent attachments are component parts. Third, Article 466 states that electrical installations are permanent attachments. Within the definition of the Louisiana Civil Code, fixtures are part of the realty, and in this particular instance, chandeliers. Finally, “the views of the public on which items are ordinarily regarded as part of a building must be considered in defining those items which the legislature meant to include within the term electrical installation.”⁶⁵ Does the

⁶²Ibid.

⁶³Ibid, p. 448.

⁶⁴Louisiana Civil Code, Art. 467.

⁶⁵*Equibank v. IRS*, p. 1179.

average, ordinary, prudent person buying a home expect the light fixtures to be there when he or she takes possession? In the Courts view, “the societal expectation is to have the lights go on.”⁶⁶ This doctrine of immovables may be argued to apply to cornices and panels as other “installments” that are component parts, since they are permanently attached to the structure; their removal would result in substantial damage to themselves or the immovable item to which they are attached.

As far back as 1850, the Louisiana Supreme Court decided in *Mackie v. Smith*, that mirrors for which recesses had been cut into the wall of a residence became immovables by destination. The purchaser of a house brought action to recover two valuable ornamental mirrors found in one of the rooms of the house, which had been removed by the owner/seller. The seller demonstrated that the mirrors were not affixed to the building with plaster or mortar, and that they could be moved without being broken or injured. However, after the owner purchased the mirrors, he altered the structure by cutting recesses into the wall to accommodate and receive the mirrors which would be held in place by brackets and ornamental frames screwed to the wall. The recesses were left in a rough and unfinished state; the mirrors and frames being clearly intended to be the permanent finishing of the walls.

“The *Mackie* court found that this method of attachment revealed that the owner’s intention was that the mirrors be a ‘permanent finishing of the wall,’....Since the mirrors were intended to be the permanent finishing, the were immovable by destination.”⁶⁷ Hence, through intent and physical alteration of the structure, the court found the mirrors to be annexed to the property. This finding is based on civil code definition Article 468.⁶⁸

⁶⁶Ibid, p. 1180.

⁶⁷Ibid.

⁶⁸There are two ways in which an immovable by destination may be created: 1) ‘without any physical attachment to the fundus, but merely by the dedication of the movable to the service of the fundus. 2) By

The statutes serve as models because definitions under the Louisiana Civil Code are more explicit than the broad, general definitions of the California Civil Code.

Definitions Under California Litigation

In California, fixtures litigation typically centers on the determination of trade fixtures for the purposes of taxation, not on issues relating to the removal of fixtures that are decorative or historic in nature. In *Crocker National Bank v. the City and County of San Francisco*⁶⁹, the Court reviewed a case that restated the standardized test for fixtures. The case was brought to trial by a bank seeking a refund of real property taxes levied by the City and County of San Francisco on the bank's electronic data processing equipment. Thus, the State Supreme Court reviewed the issues of classification of items as fixtures and the taxation of such equipment as real property, restating the *Teaff* fixtures test for interpretation under California law.

“It is well settled that in determining whether an article constitutes a fixture, three criteria must be taken into consideration: 1) the manner if its annexation to the realty; 2) its adaptability to the use and purpose for which the realty is used; and 3) the intention with which the annexation is made....In resolving whether an article placed on the premises constitutes a fixture or personal property, the afore listed three elements do not play equal parts.”⁷⁰

As for annexation, the Court noted that the equipment at issue “was not physically attached to the building through permanent connections, as by means of cement, plaster, nails, bolts or screws.”⁷¹ Rather, the equipment was attached through standardized “quick-disconnect” plugs that were inserted into the electrical power source.

means of a physical attachment affixing the movable permanently --a perpetuelle demeure. Louisiana Civil Code, Art. 468.

⁶⁹ *Crocker National Bank v. the City and County of San Francisco*, 49 Cal.3d; 264 Cal. Rptr. 139, 782 P.2d 278 (1989).

⁷⁰ *Ibid*, p. 887.

⁷¹ *Ibid*, p. 890.

As for adaptation, the Court noted that the equipment was not specifically adapted for placement within the building and, the building, was not specifically adapted or modified for housing the equipment. Realizing that buildings are designed to accommodate a variety of electronic equipment, the opinion was that this does not suggest *permanence*. The rationalization was that office buildings do not turn telephones and photocopiers into fixtures through connection and placement within the building. Most likely, it is not the intention of the owners to make them so. Finally, the Court stated that “there are no other objective manifestations of permanence that are sufficient to outweigh the manifestations revealed by the evidence bearing that on annexation and adaptation--viz., that the equipment did *not* constitute a permanent part of the building.”⁷²

The effect of severance is quite different in California than in Louisiana. In *Equibank*, the character of the chandeliers from immovables to movables did not change with their departure from the mansion. In California, the opposite is true--character does change with severance, which works to the detriment of historic interiors. An early case cited in the Robinson House litigation was *Buckout v. Swift*,⁷³ which established precedent for the effect of severance for fixtures in California. In *Buckout*, the great flood of 1862 washed a house off its lot and into the street a short distance away. The owner then relocated and rebuilt the house on an adjacent, vacant lot. The mortgagee brought action against the owner for the recovery of the lien on the house subject to the mortgage. The Court ruled that:

“So far as legal effect is concerned, it matters not whether the severance was by the act of God or the act of man. The severance, *proprio vigore*, changed the character of the property from real to personal, irrespective of the means by which it was accomplished.”⁷⁴

⁷²Ibid.

⁷³*Buckout v. Swift*, (1865) 27 Cal. 433.

⁷⁴*City of Pasadena v. Col. John Combe*, No. GC 010117; January 1995.

Through further discussion, the court stated “when the house in question was removed from the land, it was withdrawn from the operation of the mortgage lien.”⁷⁵ This change in character was echoed in *Teater v. Good Hope Development Corp.*⁷⁶ “Where a fixture annexed to a freehold is tortiously severed, right of immediate possession is created and owner of realty may, at his option, treat the fixture as personalty and recover it in replevin.”⁷⁷

Definitions under the Historic-Cultural Ordinances of Los Angeles and Pasadena

How do the preservation ordinances in Los Angeles and Pasadena address fixtures? First, the Los Angeles ordinance does not make any provisions to explicitly define articles that should be preserved *en situ*. A designated interior is subject to design review by the Cultural Heritage Commission for any planned alterations. The provisions for design review provide limited protection against the demolition or inappropriate alteration of designated landmarks. “No permit for the demolition, substantial alteration or removal of any building, structure or site contained in said [Historic-Cultural Register] list shall be issued, and no such site, building or structure shall be demolished, substantially altered or removed by the City without first referring the matter to the [Cultural Heritage] commission....”⁷⁸ Fixtures removal is not addressed or defined for purposes of the ordinance. The Los Angeles Ordinance remains substantially unchanged since its adoption in 1962.

In contrast, Pasadena updated its Cultural Heritage Ordinance in 1987 after the Blacker House incident, extending the authority of the Cultural Heritage Board to regulate the

⁷⁵Ibid.

⁷⁶*Teater v. Good Hope Development Corp.*, (1939) 93 P.2d 112, 14 C.2d 196, (California).

⁷⁷California Civil Code §1013.

⁷⁸Los Angeles Administrative Code, §22.132.

removal of fixtures from designated interiors and making provisions to define in explicit language those articles that are important to the composition of interior design and should be preserved *en situ*. “Significant interiors of structures may be designated individually or in their relation to the structure as a whole.”⁷⁹ An important feature of the Pasadena Ordinance is that the definition of fixtures is more explicit than the California Civil Code, and specifically addresses methods of attachment traditionally used by local architects. The definitions relate directly to the work of the Greene Brothers, and includes descriptive references to the types of fixtures that the pair designed for their clients, i.e. built-in furniture and cabinetry, paneling and molding, etc.. The amended Pasadena ordinance defines fixtures as:

“A decorative or functional device permanently affixed to the site or the interior or exterior of a structure and contributing to its ability to meet landmark or treasure criteria. “Permanently affixed” includes, but is not limited to, attachment by screws, bolts, pegs, nails or glue, and may include such attachment methods as rope, glass or leather if such material is integral to the design of the device. Fixtures include but are not limited to, lighting devices, murals, built-in furniture and cabinetry, paneling and molding, leaded glass or other decorative windows and decorative hardware.”⁸⁰

In developing a plan to prevent the removal of fixtures from significant interiors, the first step is to prevent the fixtures from being severed from the structure in the first place. In Pasadena, “any person wishing to demolish, relocate or alter a designated landmark, or to demolish, relocate, alter or *remove*⁸¹ exteriors or *fixtures* from any structure or portion thereof designed by the firm Greene and Greene, including works of Charles Greene or

⁷⁹Pasadena Administrative Code, §2.75.170.

⁸⁰Ibid, at §2.75.120.

⁸¹“Removal” means the displacement from the site of a cultural resource of any device, feature, fixture, hardware, structural or decorative material contributing to the cultural, historic or architectural character of the cultural resource. Ibid, at §2.75.120.

Henry Greene, must first obtain a Certificate of Appropriateness form the [Cultural Heritage] commission.”⁸²

The decorative fixtures that are valued by today’s homeowner and architectural designer are component parts of historic interiors. The inability to reproduce hand-crafted items in an inexpensive manner has contributed to the demise of historic buildings. When significant interior fixtures are recognized to require protection, statutory definitions and preservation legislation must be updated to reflect the expanded preservation values.

⁸²Ibid, at §2.75.200.

CHAPTER FOUR

THE CULTURAL HERITAGE ORDINANCES OF LOS ANGELES AND PASADENA, AND A SURVEY OF ADDITIONAL PRESERVATION TECHNIQUES

The preservation planner of today has many tools available to identify the historic resources that make up the urban environment. These tools are designed to recognize the various stages of urban growth patterns and significant examples of architectural achievement and design. However, the typical planning survey only considers the architectural merits within public view from the street and not those of private spaces. Most of the current tools emphasize the more permanent architectural quality of the building exterior rather than the ephemeral characteristics of interior design.

Building interiors, fixtures and their surface finishes are more often subject to change than building exteriors. When one considers all the tenant improvements that each building occupant makes to a structure, it becomes apparent that the rate of change to the interior is substantially higher than that for the exterior. As Stewart Brand states in his book, *How Buildings Learn*, buildings are subject to three dynamic forces--technology, money, and fashion. "If people have money to spare, they *will* mess with their building,

at a minimum to solve the current set of frustrations with the place, at a maximum to show off their wealth, on the reasonable theory that money attracts money.”⁸³ For example, consider the changes families make to the interiors of their homes over the years with new carpets, paint color schemes, light fixtures, and bathroom updates. Tenants in commercial buildings make frequent changes too, by continually creating interiors that present an up-to-date image to their customers.

What available tools can substantiate that an interior has retained its historic fabric? The following sections discuss the local preservation ordinances of Los Angeles and Pasadena and additional preservation tools available to identify, regulate and protect historic resources.

The Historic Preservation Ordinance in Los Angeles and Pasadena

In 1962, Los Angeles became the first city in the County of Los Angeles to adopt a Cultural Heritage Ordinance. The Los Angeles municipal code created the Los Angeles Cultural Heritage Commission, which is authorized to designate sites, landscapes, structures, buildings and *interiors*,⁸⁴ of historic, architectural, cultural or aesthetic significance to the City of Los Angeles. The ordinance created a registry of sites and buildings known as Los Angeles Historic-Cultural Monuments (LAHCM). There are approximately 650 designated landmarks and 23 historic districts or overlay zones encompassing over 2,000 properties in the City of Los Angeles.

⁸³Stewart Brand. *How Buildings Learn: What Happens After They're Built*. Cambridge: MIT Press, 1994. p. 5.

⁸⁴As early as 1962, the City of Los Angeles has had the authority to regulate interiors. However, the power to designate interiors is seldom practiced in the city.



Figure 21. Palm Court, Alexandria Hotel. (Source: City of Los Angeles Cultural Affairs Department, *Historic Cultural Monuments*.)

Los Angeles has only one building interior designated as a historic-cultural monument. The Palm Court of the 1904 Alexandria Hotel is registered as LAHCM #80. The designation applies only to the dining room, not the other major public rooms of the hotel in which it is located. True to its original decor, the room features a stained glass ceiling extending almost the length of the 196-foot dining room. Ironically, the Italian Baroque style hotel itself is not registered as a monument. As part of the designation, the room must be accessible to the public for inspection. This is not an issue, as the Palm Court is a semi-public space of a hotel. However, the public access provision that comes with interior designation may explain why interior specific landmarking of private residences has not occurred in either Los Angeles or Pasadena.

Registration as a landmark does not prevent demolition of the structure or bar the removal of fixtures. Alterations to designated interiors require design review, but only for structural changes, not for removal of historic fabric. The Cultural Heritage Commission may delay permits for demolition or inappropriate alterations for up to one year while alternative proposals are being reviewed. Designation also mandates the use of the State Historical Building Code and requires environmental review under CEQA. Currently, there is no minimum age requirement for landmark status, although proposals for an amendment declaring a minimum age of 50-years have been discussed in recent years.

Pasadena's ordinance established its Cultural Heritage Commission in 1978, authorizing its commission to "protect and promote the retention and use of landmarks and landmark districts in the city and to promote an awareness of Pasadena's unique heritage."⁸⁵ The commission is authorized to conduct a continuing survey of the city and designate properties as landmarks or structures of merit. The Cultural-Heritage Landmarks registry recognizes four levels of significance: *structures of merit*, *landmarks*, *landmark districts*, and *historic treasures*. The most stringent protections apply to the historic treasure category, defined "as any cultural resource that has outstanding character or outstanding historical, cultural, architectural, archeological, community or aesthetic value as part of the heritage of the city, region, state, or nation."⁸⁶ The *Historic Treasure* is a structure that may include interior or exterior fixtures or other artifacts that may contribute to its ability to meet landmark status.

The Pasadena Ordinance goes further than Los Angeles' to safeguard historic interior fixtures by addressing their protection in the language of the statute. The City felt it was

⁸⁵City of Pasadena Cultural Heritage Commission. Pasadena Administrative Code (Ordinance 6610 §2R, 1994.) Chapter 2, § 2.75.010. City of Pasadena Department of Urban Conservation, Pasadena, CA. Published September 1994.

⁸⁶Ibid, §2.75.120.

necessary to specifically address the designs of the Greene Brothers because of their vulnerability to looting, as evidenced by the Blacker House incident. Any person wishing to demolish, relocate or alter a designated landmark, or to demolish, relocate, alter or remove exteriors or fixtures from any structure designed by the firm of Greene & Greene or its individual partners, must first obtain a Certificate of Appropriateness from the Commission. A permit for alteration or demolition may be delayed for up to one year while alternate proposals are considered. Additionally, the Pasadena ordinance allows the City to acquire facade easements to protect historic exteriors. However, no reference to interior easements is made in the legislation. Approximately 350 monuments including four landmark districts are recognized across the city. Thirty-four Greene & Greene structures are classified and protected as *Historic Treasures*, with an all inclusive design review requirement for any proposed changes or alteration, including fixtures removal.

Los Angeles and Pasadena established their respective Cultural Heritage Commissions to identify historic resources and prepare city registries of significant properties. The regulation of private property will only occur if the authorized agency is willing to enforce the municipal historic preservation ordinance.

Additional Preservation Tools

Direct Regulation

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires governmental agencies at all levels within California to consider the impact proposed projects have on the environment, including objects of cultural and historical significance. The intent of CEQA is to inform government decision makers and the public about the potential significant effects of proposed private and public activities, and to identify the ways that

significant effects can be avoided or reduced by requiring alternatives or mitigation measures.”⁸⁷ Public agencies should reject proposed projects “if there are alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.”⁸⁸

A significant effect is defined as substantial or potentially substantial adverse change in the environment. Environmental aspects considered under CEQA are “the physical conditions which exist within the area affected by the proposed project, including land, air pollution, water quality, traffic, archeological resources, flora, fauna, noise, and objects of cultural and historical significance.”⁸⁹ The threshold of significance is determined by the Lead Agency or other agency with expertise in that area. The final decision of significance rests with the Lead Agency.

CEQA requires public agencies to prepare an environmental impact report (EIR) for any proposed private project subject to their approval, and on all public projects performed by that agency which may have an adverse effect on the environment. “The EIR is supposed to identify ‘mitigation measures,’ methods of minimizing the adverse effects of the proposed project, as well as consider ‘project alternatives’ that might reduce or eliminate unfavorable environmental impacts.”⁹⁰ For example, a request for a demolition permit, an action which has the potential for resulting in a change in the environment either directly or indirectly, must be reviewed by a governmental agency that has the ability to make a “discretionary decision.” The removal of fixtures is not an action that requires government to make a discretionary decision, and as such, is not subject to CEQA review.

⁸⁷American Institute of Architects, Los Angeles Chapter. *Historic Preservation Resources Manual, first edition*. Los Angeles: American Institute of Architects Historic Resources Committee, 1993, p. 48.

⁸⁸Joel T. Perlstein. “Substantive Enforcement of the California Environmental Quality Act.” *California Law Review*, January 1981, v. 69 n.1, p. 113.

⁸⁹Ibid.

⁹⁰Perlstein, p. 115.

CEQA can be an effective tool for preserving historic structures by backing protections placed on recognized⁹¹ historic resources from demolition or alteration. For instance, in the case of St. Vibiana's Cathedral, the Superior Court of California upheld preservationists' demand for the preparation of an EIR prior to the issuance of a demolition permit by the City, despite the contentions of the City Council and the Catholic Archdiocese that one was not required since the Council had stripped the cathedral of its historic landmark designation.

Municipal Historic Preservation Ordinance

One of the key elements in protecting historic resources is the enactment of a local historic preservation ordinance. "It is at the *local* level--not federal or state--that preservation laws are more likely to regulate private actions affecting privately owned historic property."⁹² The ordinance authorizes a city bureau (historic preservation commission) to identify properties of historic or cultural significance to the community. Most municipal historic preservation laws authorize historic preservation commissions to review and deny requests to alter, demolish, or remove property designated as a historic landmark or included in historic districts.⁹³ "In some cases, local property designation under municipal ordinances may extend eligibility for significant tax benefits, including federal tax benefits if the local government program has been certified by the federal government."⁹⁴ State tax benefits, including the Mills Act, are also available for properties listed on local registers as well as those on the state and national lists. The

⁹¹Recognized historic resources are those structures which have been determined by an authorized government agency to be eligible for listing on the National Register of Historic Places or to contribute to the character of a National Register Historic District or local historic district. Individual buildings can be listed on the local registers of Pasadena and Los Angeles without the consent of the private property owner.

⁹²Preservation Law Reporter. "Untangling the Preservation Web: Understanding the Different Approaches to Historic and Cultural Resource Protection." vol. 15, no. 1, January 1996, p. 1006.

⁹³Ibid, p. 1006.

⁹⁴Ibid, p. 1003.

Mills Act offers property tax relief in exchange for an agreement from the property owner to maintain the historic resource for a term of ten years

The municipal historic preservation ordinance may authorize the creation of a landmark commission or a historic district review board. "A historic review board governs a specific historic district or districts within a city or county, while a landmark commission has the power to designate and regulate individual historic landmarks anywhere within the jurisdiction."⁹⁵ The authorized municipal agency may delay permits for demolition or inappropriate alterations for up to one year while alternative proposals are being reviewed. In most instances, interiors are designated as landmarks on a limited basis. In the case of Pasadena, one whole class of structures, those buildings designed by the Greene Brothers are designated as historic resources requiring review for alteration and removal of fixtures from the interior and exterior. The interiors are not individually designated, but are protected as a significant element of the architectural design under the broad scope of the preservation ordinance.

From the perspective of the private owner or developer, attempts by the community to deny him the freedom to develop or alter his property as he pleases may be viewed as punishment for owning an historic property. "Preservation disputes of this kind mirror the problem which arises in almost every other context in which government directly regulates private activities for the good of the public."⁹⁶ The right of the private property owner to alter an interior may be one of the most sacred aspects of the "bundle of sticks" that make up private property rights.

⁹⁵J. Bradley O'Connell, Thomas J. Owen and Mary Warner. *Historic Preservation in California: A Legal Handbook*. Stanford, CA: Stanford Environmental Law Society, April 1982, p. 48.

⁹⁶*Ibid*, p. 3.

The central debate boils down to the question of who should bear the costs associated with historic preservation when most of the benefits of preserving historic resources or most of the harm of failing to do so will be felt by the community (although the owner will, of course, be affected as well.)⁹⁷ “Due to the inevitable tension between the private property owner’s desire to use his property without restriction and the application of local landmark ordinances to limit the uses of private property, a number of constitutional issues are frequently contested in the context of historic preservation.”⁹⁸ Government already regulates private property through general zoning ordinances. Zoning is the most familiar device by which localities exercise police power over private land use, whether for historic preservation or other objectives. Therefore, the introduction of a historic preservation legislation is not a new proposal that will take private property owners by surprise. Interior designation, however, may appear as government overreaching into private lives of property owners with historic residences.

A municipal preservation ordinance will only be effective if a municipal agency has the authority to review alterations and fixtures removal before they occur. The ordinance must define fixtures in detail and provide descriptions for attached items that are protected under the scope of the ordinance. Without comprehensive statutory definitions of fixtures or a mandate for their on-site retention, the municipal historic preservation ordinance will not be effective in helping preservationists fight fixtures removal. The Pasadena Ordinance was updated after the Blacker House incident. In contrast, the Los Angeles Ordinance does not specifically define fixtures as articles that require protection, nor does it address issues relating to their removal from designated city landmarks despite

⁹⁷Ibid.

⁹⁸Manwaring, “American Heritage at Stake: The Government’s Vital Interest in Interior Landmark Designations,” p. 302.

the significance of local preservation battles concerning exactly this issue. Hence, *this* particular ordinance is weak and not an effective preservation tool for interiors.

Private Land Use Controls

Covenants

When real property is transferred, restrictions on its use sometimes are included with the change of title. “These restrictions, called ‘covenants running with the land,’ may be spelled out in the deed, but more commonly are recorded separately.”⁹⁹ Only covenants that relate to the use of the property may run with the land and be enforceable. For example, the stipulation that a large family estate donated by a private individual to a municipality or foundation on the condition that it may only be used as a public library and park, is one type of covenant. “The grantee takes the property subject to a set of ‘conditions, covenants and restrictions,’ which is recorded in the County Records Office.”¹⁰⁰ These covenants can not be eliminated once they are recorded.

A covenant may require all original fixtures and furnishings present in a historic building at the time of title transfer be kept in or stored on-site to prevent removal or detachment from the structure at a future time. “A carefully worded covenant can be inserted in the deed to an historic property, resulting in a legal obligation on the owner, and all subsequent owners, to maintain and preserve the structure.”¹⁰¹ In cities such as Charleston, S.C. and San Francisco, CA “local historic preservation foundations which use revolving funds have found covenants to be invaluable.”¹⁰² These groups use

⁹⁹Randolph, Mary. *The Deeds Book: How to Transfer Title to California Real Estate*. Berkeley: Nolo Press, 1987, p. 6:22.

¹⁰⁰*Ibid.* p. 6:23.

¹⁰¹O’Connell, p. 27.

¹⁰²*Ibid.*

covenants that include timetables for repair work in addition to retaining the right of first refusal should the new owner offer the property for sale.¹⁰³

To attach a preservation covenant on a property deed, the fee simple must be acquired by a preservation group or other allied interest, or the current property owner must be sympathetic to preservation objectives. Therefore, preservation covenants can have the effect of property control without the direct involvement of local government or the acquisition of the fee simple absolute.

Preservation Easements

Preservation easements create an incentive for the protection of historic buildings and sites by allowing the owner to donate aspects of a historic property to a non-profit organization for a local property tax reduction. "Owners of historic properties who donation of preservation easements to qualified preservation organizations may also be eligible for a charitable contribution deduction under Section 170 of the Internal Revenue Code."¹⁰⁴ Easements are legal documents that regulate the use and change of real property. To qualify as a valid reduction, the easement must constitute a restriction granted in perpetuity on the property's use. The recipient of the easement is responsible for monitoring and enforcing the terms of the easement and must grant approval for any alterations that may be proposed. The value of the contribution of a preservation easement is the fair market value of the easement at the time of donation. The assessed value of the property must be reduced proportionately, which may be reduce property taxes.

¹⁰³No data is available to measure the number of interior specific easements that local foundations use for historic preservation.

¹⁰⁴Preservation Law Reporter, p. 1009.

Preservation easements require some visual public access to the donated property. If a structure is hidden from view or the easement governs interior, a provision must be made for regular opportunities for the public to view the features or characteristics that are the subject of the easement. Access during an annual community home tour can satisfy this requirement.¹⁰⁵ The preservation easement can also be used in conjunction with revolving funds to purchase, restore, and resell threatened properties with the easement attached to the deed.

“Preservationists must be careful not to acquire any easements through simple donation because the gift may be legally revoked by the donor.”¹⁰⁶ Under California law, certain types of easements can be transferred away or sold to a new holder.¹⁰⁷ For an easement grant to have a binding effect upon the property owner, he must receive some form of compensation in exchange for the easement. This sum can be the actual cost of the easement or as little as a token amount. The preservation easement may be effective in protecting historic resources in perpetuity provided it can not be sold, and the terms of the easement run with the title. It is important to consult legal counsel to discuss the terms and conditions that may be associated with the donation or purchase of a preservation easement.

¹⁰⁵The public access requirement in California does not mandate that properties be open for public inspection continuously throughout the year. In working with Historic Preservation Partners for Earthquake Response, a public-private partnership of federal, state and private historic preservation foundations formed after the 1994 Northridge Earthquake to administer federal and state grants to repair eligible historic properties, the California SHPO indicated to the author that participation in community home tours would satisfy the public access requirement for owners who accepted the public moneys to repair their damaged properties. This is also an acceptable instance of public access for easements as well. However, property owners are mandated publish in a public forum, such as a newspaper, the dates that their properties will be open to the public for viewing on an annual basis.

¹⁰⁶O’Connell, p. 25.

¹⁰⁷“It is important to note that under the old common law certain types of easements could not be sold or in any way transferred to a new holder. This, however, has been changed by statute in most states including California. Easements can now be freely sold or conveyed. See Cal. Civil Code §§801, 1044 (West 1954); *Leggio v. Haggerty*, 231 Cal. App. 2d 873, 42 Cal. Rptr. 400 (1962).” *Ibid.*

While the preservation easement is not able to adapt to changing preservation goals or attitudes, it does offer flexibility in the fact that easements are not restrained by geography in application to historic resources. The Los Angeles Conservancy and Pasadena Heritage accept preservation easements for their respective communities. Additionally, the California Preservation Foundation, with a state-wide emphasis on historic preservation, accepts preservation easements as well.

Revolving Funds

The most direct way for to assure the preservation of any threatened historic property is to purchase the fee simple outright from the private property owner. This requires that concerned preservation parties have or have access to funds to finance property acquisition. “While this approach to preservation has merit, the purchase and restoration of historic properties on an *ad hoc* basis often proves to be a prohibitively costly solution and is justifiable only in situations where funding is available and no other alternative exists.”¹⁰⁸ Usually, it is the not-for-profit group that is looked to for the purchase of threatened landmarks. However, when we speak of private not-for-profit groups such as the Los Angeles Conservancy or Pasadena Heritage, we are speaking of organizations that are not flush with cash, but are operating on a tight budget. Very seldom do such groups have the substantial funds available to respond to preservation crises whenever and wherever they arise.

When the concerned preservation group pursues fee simple acquisition, it may involve a private negotiation with the owner or bidding against other developers who wish to tear the structure down or to remove valuable fixtures. In either case, substantial financial power is required from groups with limited funds. Historic resources will have to be

¹⁰⁸ *Preservation Law Reporter*, p. 1001.

evaluated and prioritized according to their significance and degree of endangerment. Some resources will be saved and while others will slip through the cracks. Therefore, revolving funds will only have a limited, but still valuable effect in preserving historic resources. Once a property is acquired, the purchasing group can then resell the property with restrictive covenants and easements requiring the preservation of significant interior spaces *in perpetuity*. Because acquisition of property under revolving funds is a private activity that does not involve public moneys, city officials and local resident may ignore the activity unless there is some controversy associated with the rehabilitation or proposed new use for the structure.

Planning Tools

Cultural Resource Surveys

“Cultural Resource Surveys identify buildings, sites, structures and districts deserving recognition, provide a basis for possible official designation and help establish preservation goal and objectives.”¹⁰⁹ While other cities in the county such as Beverly Hills, Santa Monica and Pasadena have conducted wide-scale cultural resource surveys, the City of Los Angeles has not been surveyed comprehensively. Each of the Los Angeles Community Redevelopment Agency project areas has been surveyed for cultural resources. Other parts of Los Angeles, as well as Pasadena, have been surveyed as a result of large public works projects. For example, the surrounding areas of the route of the Los-Angeles-Pasadena trolley line have been surveyed, in addition to areas affected by the completion of Interstate 710 in both cities.

The basis of the cultural resource survey is to visually identify buildings of potential significance from the property line as viewed from the street. It is normally the first level

¹⁰⁹ American Institute of Architects, Los Angeles Chapter. *Historic Preservation Resources Manual*, p. 96.

of investigation into building identification. Additional research into identified significant resources is subject to the availability of funding by local government. No consideration of interiors is given at this level of investigation, although buildings designed by prominent architects who were known to have created complete designs of the interior and exterior may be flagged for further investigation. However, identifying and researching interiors would be an enormous undertaking requiring large numbers of bureau staff and funding. This makes surveys of interiors impracticable if not impossible. Hence, the survey is not able to verify that significant interiors exist in an uncompromised state if they exist at all.

Historic Context Statements

Historic Context Statements are written in conjunction with the community plan and its subsequent revisions. “An historic context statement is a history of the development of an area organized by themes such as the economic, residential, and institutional development, transportation and water rights.”¹¹⁰ It identifies property types and their characteristics relevant to the themes. The preparation of the historic context statement facilitates the assessment of the relative significance of properties. “Accordingly, the National Park Service and the State Office of Historic Preservation have placed increasing importance on the development of historic context statements in recent years to improve their ability to make more informed decisions about the designation and management of cultural resources.”¹¹¹

This type of preservation tool is very broad and general, primarily dealing with the exterior concerns of buildings and urban growth patterns. It does not go into enough historical detail and depth to make building interior preservation a viable objective at this

¹¹⁰Ibid.

¹¹¹Ibid.

level of investigation. It was designed to assist preservation planning and general planning at the macro level.

Municipal Specific Plans

A Specific Plan implements the General Plan of a municipality and can provide regulatory controls and incentives for historic areas. The specific plan is a new zoning ordinance that can replace the existing zoning for a certain area. “Historic preservation may be identified as one of the purposes of a specific plan, although other planning and zoning matters may be addressed as well (for example, allowing commercial uses in residential zones.)”¹¹² When a community’s specific plan is prepared, “a floating historic preservation zone can be created even though no buildings have yet been designated for their historical significance.”¹¹³ When the planning commission determines through survey that certain property satisfies the zone criteria, a record is made of the potential eligibility. The survey may be used by the authorized regulatory agency to prepare a landmark designation for the eligible property.

Only the authorized Cultural Heritage Commissions may designate and register buildings of potential architectural or historic significance. A specific plan may contain design guidelines that require architectural review, similar to the designation of a historic district, but without the “official” designation. No consideration or specific protections for interiors are given at this level. Again, this type of preservation tools functions at the macro level.

Overall, planning tools are not effective for preserving interior spaces. Most planning tools are designed to recognize important historic resources based on their external

¹¹²Ibid, p. 98.

¹¹³O’Connell, p. 47.

appearance. Identification is made from the perspective of the public domain--the sidewalk. Agencies that carry out planning surveys do not have authority to designate significant properties or regulate historic resources. By recording the continued existence of historic properties, buildings with significant exteriors can be identified and may be brought to the attention of the regulating preservation authority.

Planning surveys can be used to update city catalogues of existing works by famous architects and designers. However, this is not a likely to happen since it requires that different and sometimes competing city agencies coordinate their efforts and share information. In Los Angeles and Pasadena, the bureaus that regulate historic resources are within the respective Departments of Parks and Recreation for each city. Cultural resource surveys are prepared by the Department of Building and Safety. Plans to establish historic district guidelines are created by the Department of City Planning. Thus, historic preservation is spread across the whole city bureaucratic structure making coordination, efficiency and continuity of identification difficult and complex. These tools can be important in potentially identifying resources. However, through their design, they can not identify or regulate the interiors of buildings.

Interior identification must be done at the micro level, through identification and visual inspection of specific buildings to address issues of interior preservation. This can only be done by those individuals that have direct access to private property, which is something the government is not able to do without out a warrant. Therefore, identifying significant interiors is limited by funding, staffing and legal concerns, as well as technical issues. Furthermore, standardized criteria must be developed by local government to evaluate interiors against minimum standards of historical significance. Definitions will depend upon the local building history for each community in establishing standards of

historical significance. This may or may not include the existence of fixtures and historic decorative surface finishes.

Financial Incentives: Mills Act (Property Tax Abatement)

The California State Legislature established the Mills Act in 1976 to offer an alternative method for determining assessed value on certain qualified historic properties. “This law provides for a reduction in property taxes on a historic property when the owners of designated properties enter into a preservation contract with local government to restore the property if necessary, maintain its character, and use it in a manner compatible with its historic characteristics.”¹¹⁴ To qualify for the Mills Act, a property must be listed on the National Register of Historic Places, be located in a National Register Historic District, or be listed on a state, county, or official city register. Before the Mills Act can be used by private property owners, a Mills Act ordinance must first be adopted by the municipality or county (for unincorporated areas) in which the owner resides. The owner of an eligible property applies to the local government to enter into a historic property contract. Both Pasadena and Los Angeles utilize the Mills Act to provide an incentive through tax abatement for historic preservation in their communities.

The minimum length of a Mills Act contract is ten years. During this time, the property owner is obligated to prevent the deterioration of the property and comply with any mandated restoration or rehabilitation provisions according to the Secretary of the Interior’s Standards for Rehabilitation. Restrictions may include city approval prior to demolition or any alteration work proposed. In addition, periodic examination of the property to ensure compliance with the terms of the contract may be required. Mills Act contracts are binding on all successors in interest to the original owner. In the event of a

¹¹⁴Ibid, p. 102.

breach of contract, the local government has the option of either bringing legal action against the owner for compliance violations or canceling the contract. The municipality may assess a penalty of 12.5 percent of current market value at the time of cancellation.

While the Mills Act does not specifically address the preservation of building interiors as a specific objective of the program, there is the potential to extend this law to preserve interiors. The preservation of significant interiors and fixtures might be achieved if an additional tax incentive was included with the property tax reduction already offered based upon the retention and restoration of original significant interior spaces and fixtures. This increase in property tax reduction could be one financial incentive that would be competitive with piece meal stripping of interiors by owners. Often, historic buildings are more valuable when broken down into fixtures, moldings, doors and stair rails than as whole structures.

Property tax abatement is attractive to owners in neighborhoods where property is undergoing rapid inflation. Property tax assessments are based on the highest development potential allowed under existing zoning. Many historic buildings do not conform with current zoning ordinances, since they were constructed under earlier and potentially outdated regulations. The Mills Act has the potential to shield property owners, especially residential property owners, from severe property tax increases due to rapid inflation.

During prolonged periods of declining real estate values, the frozen value of the property tax abatement can have the reverse effect, leaving the property owner with a higher tax rate for the remaining term of the Mills Act contract. The non-restricted tax assessments in the immediate area may actually go down if the declining real estate market extends

long enough. In the event of a breach of contract by the property owner, including the duty to prevent deterioration, the local government has the option of either bringing legal action against the owner for compliance violations or canceling the contract. In the event the contract is canceled, the owner is assessed a penalty of 12.5 percent of the property's market value at the time of cancellation. Hence, the private property owner should consider the long term situation of his property before entering into a Mills Act contract.

The Mills Act legislation specifies the local "legislative body" as the acting government agency in the formation of historic preservation contracts. This is a logical arrangement since it is the local legislative body that assesses and collects property taxes. Therefore, monitoring the properties protected under the contract is made easier as well. Additionally, the property owner is able to meet face to face with local officials in Pasadena or Los Angeles, rather than having to travel to Sacramento, the state capital, 401 miles to the north. In each situation, city officials must go on record in agreeing to give a "tax break" to a particular property owner. "Thus, the 'legislative body' requirement may guarantee accountability at the price of political workability."¹¹⁵

Historically, "property tax incentives have not been a major engine of historic preservation in California."¹¹⁶ In 1978, two years after the Mills Act was passed, Proposition 13¹¹⁷ became California law. "Proposition 13 reduces taxes for many property owners in the state; for this reason, the reduction in assessment which a restrictive contract would bring is not worth as much to a taxpayer as it was before 1978."¹¹⁸ As such, Mills Act contracts are merely incentives and not effective

¹¹⁵O'Connell, p.77.

¹¹⁶Ibid, p. 78.

¹¹⁷Proposition 13, a state constitutional amendment, imposes upon all local property taxes a ceiling of 1% of property value.

¹¹⁸O'Connell, p. 78

preservation tools wholly onto themselves. Furthermore, “the Act’s standards and procedures are sufficiently complicated that both local officials and private owners may be wary of becoming entangled in them.”¹¹⁹ Another requirement of the contract includes a public access requirement. Together with the potential penalties for cancellation and the ten-year contract term, the requirements of the Mills Act “are probably too much for a potential contract party to swallow.”¹²⁰ This may account for why the program is seldom used.¹²¹

Community Education and Involvement

Usually, it is members of the community who rally for the preservation of threatened historic resources. The task of identifying private historic resources deserving protection is left largely to private citizens and community groups. During the 1970's, preservation issues reached such a heated point that citizens groups in Los Angeles and Pasadena mobilized to save the cherished landmarks in their communities from destruction. The results of two pivotal preservation battles gave birth to well organized and active grass roots organizations that watch over the historic resources of their respective communities.

The Los Angeles Conservancy formed in response to the proposed demolition of the Los Angeles Central Library in 1978.¹²² The Conservancy has grown to offer programs focusing on awareness, assistance and action, and educating the public that preservation is a viable tool for revitalization. As the lead preservation organization for Los Angeles, the Conservancy ensures that concerns for historic-cultural resources are included in redevelopment plans for the city. Two of its most successful programs include a program

¹¹⁹Ibid, p. 77.

¹²⁰Ibid.

¹²¹Although research has determined that some experts believe that the Mills Act is used on a minimal basis, exact figures for participation were not available as of this writing to corroborate this point.

¹²²Los Angeles Conservancy. “Conservancy Celebrates 10th Anniversary.” *Los Angeles Conservancy News*, v. 16, n.5. September/October 1994.

of twelve downtown walking tours, and the highly acclaimed *Last Remaining Seats* film series, which features vintage films in the movie palaces of the Broadway Theater National Register District.¹²³



Figure 22. Rallies can be an effective way to alert local residents to preservation issues in their communities. (Source: The Los Angeles Conservancy.)

When the Bullock's Wilshire was stripped of its interior fixtures by R. H. Macy & Co., the Conservancy galvanized support for the immediate return of the fixtures. In the aftermath of the battle to save St. Vibiana's, the Conservancy is continuing to investigate alternative proposals for adaptive uses to save the old church. Community involvement can make up for the differences of a weak ordinance by advocating and pursuing historic preservation when the city is not able to respond quickly, effectively, or politically.

Pasadena Heritage was founded in 1976 by a group of concerned residents in response to a proposal to demolish two blocks of turn-of-the-century commercial buildings along the main street of downtown Pasadena for an indoor shopping mall. The mall was going to

¹²³Ibid.

disrupt the minor axis of the Civic Center's biaxial plan by blocking the view of the Civic Auditorium from the main entrance of the Central Library. The major axis of the Beaux Arts plan, which runs east-west, terminates at the triumphal arch entrance of the domed City Hall. The minor axis, running north-south, sweeps past the City Hall to terminate on center with the facades of the Civic Auditorium and the Central Library. The Civic Center is one of the few "City Beautiful" urban design schemes to become fully realized in California. The 1923 general plan was prepared by the Chicago firm of Bennett, Parsons, Frost and Thomas. The main public buildings were designed by the most prominent California architects of the time: Myron Hunt, Edwin Bergstrom, and the firm of Bakewell and Brown.¹²⁴

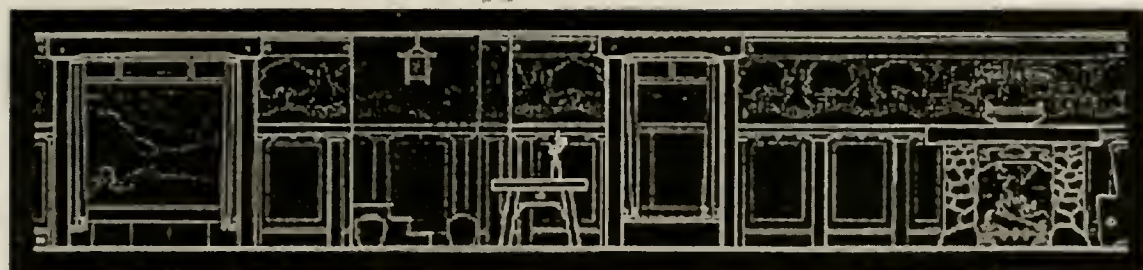
The residents were not successful in their efforts to stop the demolition of the historic city blocks. Plaza Pasadena, as the shopping mall came to be called, disrupts the Beaux Arts design plan. The loss of two historic city blocks in the town center alerted residents to the fact that citizen input was needed to prevent commercial development from impacting the distinctive Mediterranean character of the city. Other battles have brought historic preservation to public awareness. One of the most infamous was the looting of the Blacker House, in which Pasadena Heritage mobilized a campaign for the return of the pilfered Greene & Greene fixtures. The second was the proposed demolition of the Colorado Street Bridge over the Arroyo Seco, a Pasadena icon since it was built in 1912. The citizens group was successful in raising funds for its restoration and structural enhancements. Today, Pasadena Heritage holds special workshops to educate residents about design options for home modernization, taught by traditional artisans.

¹²⁴ Gebhard.

Every battle does not meet with success, but the victories have been significant in educating the public about local issues and the need for preservation. Both the Los Angeles Conservancy and Pasadena Heritage develop and distribute information regarding design controls, monitor the condition of important landmarks within the city, and conduct special home tours to highlight the historic and architectural heritage of Southern California.

Public visibility and recognition are critical for these groups if they are to act as effective players in the preservation arena. Their effectiveness can be measured in terms of public education for historic preservation. They must be active in local politics and present themselves to policy makers as reflecting the values of residents (and registered voters) in the community. When the news media, politicians, City Hall or other civic groups ignore or are unaware of threatened historic resources, community preservation groups serve the vital and necessary task of educating the public and local government about the threatened resources in the community.

In the moment of crisis they must be regarded as the first group to be called upon to take action. Pasadena Heritage alerted the city to the looting of the Blacker House after a concerned citizen called in a tip. The Los Angeles Conservancy initiated the uproar over the looting of the Bullock's Wilshire. When community organizations oppose the destruction of a historic resource, they run the risk of being demonized by opponents who have more power, influence and media credibility than they do. The organization may be publicly branded as a group of "obstructionists," "hysterical historians" and "elitists." If the community groups lose their credibility with policy makers, they will cease to be heard as a voice reflecting community values. The ability of community groups to educate and convince the public of the need for preservation could become impaired.



CRAFTSMAN WEEKEND

A WEEKEND OF EVENTS DEDICATED TO THE ARTS & CRAFTS MOVEMENT ■

November 1-3, 1996

Each year, Pasadena Heritage celebrates the unique contributions made by Pasadena architects and artisans to the American Arts and Crafts Movement. Events scheduled for this year's Craftsman Weekend include:



Craftsman Home Tour



Craftsman Furnishings and Accessories Exhibit



Restoration Workshops and Lectures



Craftsman-Era Art Exhibit and Auction

Please send me information and a registration form for the 1996 Pasadena Heritage Craftsman Weekend.

Name _____

Street _____

City _____ State _____ Zip _____

Telephone (____) _____ FAX (____) _____

Mail or FAX to: Pasadena Heritage
651 South St. John Avenue
Pasadena, California 91105 - 2913
(818) 441-6333 FAX: (818) 441-2917

Figure 23. Home tours are a popular method of teaching residents about their local architectural heritage. Best of all, they are *enjoyed* by many people in and outside the community. (Source: Pasadena Heritage.)

CHAPTER FIVE

SUMMARY AND CONCLUSION

Los Angeles and Pasadena adopted legislation to establish Cultural Heritage Commissions for their respective communities. The legislation authorized the Commissions to identify historic resources, prepare city registries of significant properties and regulate property deemed significant to the heritage of the community. These agencies are responsible for reviewing requests for permits to alter or demolish historic buildings. It is at the local level that preservation laws are more likely to regulate private actions affecting privately owned historic property.

As demonstrated by the case study examples, the ordinances of Los Angeles and Pasadena have had a minimal effect in preventing the interiors of historic buildings from being dismantled. First, in the case of the Bullock's Wilshire, the absence of an interior landmark designation and language authorizing design review for the removal of fixtures provided the City of Los Angeles with no standing to mandate the return of the antique fixtures and furnishings. Second, in the case of the Cathedral of St. Vibiana, the issue of fixtures and their removal was ancillary to the much more critical issue concerning the preservation of the church structure itself. Third, concerning the fixtures of the Robinson

House, the ordinance could not retroactively be applied to fixtures severed some forty years earlier before enactment of the statute. Finally, with regard to Bungalow Heaven, the City of Pasadena compromised on regulating the interiors of designated residences to placate the property rights fears of residents. As noted earlier in chapter two, the district is made up mainly by designs of anonymous builders. While not objects of museum quality, the fixtures from these houses still are in danger of pilfering by architectural salvage and antique dealers.

The Los Angeles ordinance does not make any provisions to define articles that should be preserved *in situ*. A designated interior is subject to design review by the Cultural Heritage Commission for any planned alterations. The provisions for design review provide limited protection against the demolition or inappropriate alteration. Fixtures removal is not addressed or defined for purposes of the ordinance. The Los Angeles Ordinance remains substantially unchanged since its adoption in 1962.

In contrast, Pasadena updated its Cultural Heritage Ordinance in 1987 after the Blacker House incident, extending the authority of the Cultural Heritage Board to regulate the removal of fixtures from designated interiors and making provisions to define in explicit language those articles that are important to the composition of interior design and should be preserved *in situ*. An important feature of the Pasadena Ordinance is that the definition of fixtures is more explicit than the California Civil Code, and specifically addresses methods of attachment traditionally used by local architects. The definitions relate directly to the work of the Greene Brothers, and includes to the types of fixtures that the pair designed for their clients, i.e., built-in furniture and cabinetry, paneling and molding, etc.. Therefore, the municipal ordinances cannot be relied on exclusively to

protect interiors from looting. Additional tools will need to be employed to in order to compensate for their weaknesses.

Not all preservation tools are equal. Tools developed around the identification and regulation of exteriors may not be capable of providing the required level of protection to keep interiors intact. New preservation tools to protect historic interiors will evolve as fixtures removal becomes an issue in more cities across the state and country. Selecting the appropriate preservation tool requires determination of the greatest potential threat and matching it with the appropriate solution. Those individuals developing a plan to prevent the removal of fixtures from significant interiors may find it necessary to prevent the fixtures from being severed from the structure in the first place. “No single approach works in every situation, and in many cases it may be necessary to draw from, and rely on, a blend of private regulatory solutions to accomplish preservation goals.”¹²⁵

Suitable Techniques to Protect Interiors

Preservation *easements* and *covenants* that mandate retention of historic fixtures are arguably more effective in responding to the issue of fixtures removal. These tools can prevent historic fixtures from becoming severed from the freehold, or from being removed from the property, and can require their storage on-site in the event of severance. What makes these tools special is that they can prevent fixtures from being treated as personal property by the owner through severance from the structure. Additionally, easements and covenants are specific to a site, and can address the requirements of fixtures retention for each site better than a municipal ordinance that must balance the concerns of the owner’s property rights with the welfare concerns of the community. Furthermore, a well crafted and explicit statutory definition of fixtures and of property

¹²⁵Preservation Law Reporter, p. 1001.

owner actions that require municipal review will give preservationists legal standing to challenge property owners or the City if either decides not to follow through with preservation mandates; multiple protections extended to fixtures and significant interiors will assure that any loopholes present in one particular program will be closed by another.

This thesis is not intended to provide an absolute solution to preventing fixtures removal. Instead, it is meant to survey existing preservation law in Los Angeles and Pasadena, along with existing preservation tools at the municipal level that may or may not address the issues of fixtures removal from historic resources. The examination has demonstrated that statutory definitions can be useful tools if they are written with specific terms identifying historic fixtures as real property. This is critical, because the statutory definitions of the municipal preservation ordinance define the scope in which local government and preservationists must work within to protect important resources, and provides legal standing with which they can mandate fixtures retention in private property. Furthermore, issues surrounding the retention of decorative surface finishes were not addressed in order to keep the focus of this thesis on the issues of interior preservation as they relate to the removal of fixtures from historic resources.

Preservation of the nation's architectural heritage as embodied in exteriors was validated as a legitimate public purpose by the *Penn Central* decision. Yet no such doctrine assures the preservation of significant interiors for future generations or stops fixtures removal. As discussed in this thesis, the municipal preservation ordinance, specifically those of Los Angeles and Pasadena, cannot be relied upon to preserve interiors by itself. The Los Angeles ordinance will require new language to regulate fixtures removal. The Pasadena ordinance, although not applicable in its first important test, is still actively administered. It may require another challenge to affirm the authority of the Cultural Heritage

Commission to regulate interiors and bar fixtures removal. The preservation community will watch the development of issues relating to the regulation of building interiors as they unfold in California and cities around the country, waiting for a case as significant as *Penn Central* to give direction and guidance for the stewardship of building interiors.

APPENDIX

Los Angeles Municipal Historic Preservation Ordinance

SECTIONS OF THE LOS ANGELES ADMINISTRATIVE CODE PERTAINING TO THE CULTURAL HERITAGE COMMISSION

Sec. 22.120. Creation of the Commission

There is hereby created a Cultural Heritage Commission (hereinafter "Commission") to perform those functions relating to historic preservation of structures and sites which embody the heritage, history and culture of the City.

Sec. 22.121. Composition of the Commission

The Commission shall be composed of five persons who are qualified electors of the City of Los Angeles. Each Commissioner shall be appointed, and may be removed, by the Mayor, subject in both appointment and removal to the approval of the City Council by majority vote of the entire membership of the Council. The members of the Commission shall be persons with special expertise in the historic, cultural and architectural traditions of the community.

Sec. 22.125. Inspection and Investigation

The Commission shall inspect and investigate any site, building or structure in the City of Los Angeles which it has reason to believe is or will in the near future be a historical or cultural monument.

Sec. 22.125.1. Temporary Stay of Permit Pending Designation

If the City Council proposes on its own initiative that a site, building or structure be included in the list of historical or cultural monuments, or the Commission determines that a proposed site, building or structure merits further consideration for inclusion in the list, then no permit for the demolition, substantial alteration or removal of that building, structure or site shall be issued pending final determination by the City Council that such site, building or structure shall or shall not be included in the list. The owner of the site, building or structure shall notify the Commission, in writing, whenever application is made for a permit to demolish, substantially alter, or remove any such site, building or structure. The City Council shall act on the proposed inclusion to the list within 60 days of such notification. The Council, by resolution, may extend the period for good cause for an additional 15 days. In acting on the proposed inclusion to the list, the Commission and the City Council shall proceed in accordance with Sections 22.126, 22.130 and 22.131.

EXCEPTION:

If the Commission finds that the proposed site, building or structure does not meet the requirements for designation as a cultural or historic monument, then the temporary prohibition on the issuance of a permit to demolish, substantially alter or remove said site, building or structure shall terminate, except when a site, building or structure was proposed by the Council on its own initiative for inclusion in the list.

Sec. 22.126. List of Monuments and Procedures for Modification of List

The Commission shall compile and maintain a current list of all such sites, buildings or structures which have been determined to be historical or cultural monuments. Such list shall contain a brief description of the site, building or structure, and the reasons for its inclusion in the list.

Prior to any modification of this list, the Commission shall solicit opinions and information regarding any sites for inclusion or deletion from such list from the office of the Council District in which the site is located and from any department or bureau of the City whose operations may be affected by the designation of such site on the list. No modification to the list of historical or cultural monuments shall be effective unless and until such modification has been adopted by the City Council by a majority vote.

The City Council may, on its own initiative, propose sites for inclusion or deletion from such list. The Commission after reviewing and investigating any such Council initiated amendment to the list, and after soliciting opinions and information regarding such potential site, shall approve or disapprove the proposed inclusion or deletion and submit a report upon such action to the City Council. In the event the Commission does not approve such Council proposed change to the list, the City Council may nonetheless adopt such change by a vote of two-thirds of the entire Council.

Sec. 22.127. Publication of List of Monuments

The Commission shall publish and transmit to all interested parties, the list referred to in Section 22.126, and shall disseminate any public information concerning the list or any site, building or structure contained therein, consistent with City Council policies and procedures.

SECTIONS OF THE LOS ANGELES ADMINISTRATIVE CODE
PERTAINING TO THE CULTURAL HERITAGE COMMISSION

Sec. 22.128.
Preservation of Monuments

The Commission shall take all steps necessary to preserve such monuments not in conflict with the public health, safety and general welfare, powers and duties of the City of Los Angeles, or its several boards, officers or departments. Such steps may include assistance in the creation of civic citizens' committees; assistance in the establishment of a private fund for the acquisition or restoration of such monuments; and recommendation that such monuments be acquired by a governmental agency where private acquisition is not feasible.

Sec. 22.129.
Definition of Monuments

For purposes of this article, a historical or cultural monument is any site (including significant trees or other plant life located thereon), building or structure of particular historic or cultural significance to the City of Los Angeles, such as historic structures or sites in which the broad cultural, political, economic or social history of the nation, state or community is reflected or exemplified, or which are identified with historic personages or with important events in the main currents of national, state or local history, or which embody the distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period style or method of construction, or a notable work of a master builder, designer, or architect whose individual genius influenced his age.

Sec. 22.131.
Notice of Designation
and Subsequent Actions

The Commission shall transmit to, and maintain with the Departments of Building and Safety, Recreation and Parks, Board of Public Works and the Board of Education, current copies of the list of historical and cultural monuments. The Commission shall also notify the owner of each building, structure or site in writing of the fact that his property is included in the list, and shall give such person written notice of any further action which it takes with respect to such property. For purposes of this section, the owner of such property shall be deemed to be the person appearing as the owner of such property on the last equalized assessment roll of the County of Los Angeles and appearing as the owner of such property on the records of the City Clerk. If the records of the City Clerk and the County Assessor indicate ownership in different persons, those persons appearing on each of such lists shall be notified. Such notice shall be mailed to the address shown on the said assessment roll or the City Clerk's records, as applicable, as soon as practicable after the property is included in the list or the Commission takes any further action regarding it.

Sec. 22.132.
Permits Required

No permit for the demolition, substantial alteration or removal of any building, structure or site contained in said list shall be issued, and no such site, building or structure shall be demolished, substantially altered or removed by the City without first referring the matter to the Commission except where the Superintendent of Building or the City Engineer determines that demolition, removal or substantial alteration of such building, structure or site is immediately necessary in the interest of the public health, safety or general welfare.

SECTIONS OF THE LOS ANGELES ADMINISTRATIVE CODE
PERTAINING TO THE CULTURAL HERITAGE COMMISSION

Sec. 22.133.

Time for Objection by the Commission

Where any matters subject to Section 22.132 of this Code are referred to the Commission it shall have 15 days from the date of such notification within which to object to the proposed demolition, major alteration or removal. If no such objection is filed with the appropriate Department or Board within the said 15 days, all such objections shall be deemed to have been waived. If the Commission objects to the proposed demolition, major alteration or removal, it shall file its objection with the appropriate Department or Board. The filing of such objection shall suspend the issuance of such permit, the demolition or major alteration of such building or structure or the removal of such site for a period of not less than 30 nor more than 180 days, during which time the Commission shall take such steps within the scope of its powers and duties as it determines are necessary for the preservation of the site, building or structure to be demolished, altered or removed. At the end of the first 30 days, the proponents of preservation of the building, structure or site shall report their progress to the Commission which may, upon review of the progress report, withdraw and cancel the objection to the proposed demolition, major alteration or removal. If the Commission determines upon the basis of said progress report, to withdraw and cancel any such objection, it shall promptly notify the Department or Board concerned of its action. Upon receipt of such notification, the permit may be issued and the building, structure or site may be demolished, altered, or removed, as the case may be. If at the end of the first 100 days of the aforesaid 180 day period it is found that the preservation of the site, building, or structure cannot be fully accomplished within the 180 day period, and the Commission determines that such preservation can be satisfactorily completed within an additional period not to exceed 180 days, the Commission may recommend to the City

Council that a request for extension be made to the appropriate Department or Board. Such recommendation shall set forth the reasons therefore and the progress to date of the steps taken to preserve the monument. If it appears that preservation may be completed within the time requested, the City Council may approve such request for extension and upon such approval shall request the appropriate Department or Board to grant an extension of time not to exceed 180 days for the purpose of completing the same. The Department or Board to which such a request is made shall grant such extension, except where it determines that granting such an extension is not in the best interest of the public health, safety or general welfare. No such request for extension shall be made after the expiration of the original 180 day suspension period.

Sec. 22.134.

No Right to Acquire Property

The Commission shall have no power or right to acquire any property for or on the behalf of itself or the City of Los Angeles, nor shall it acquire or hold any money for itself or on behalf of the City.

Sec. 22.135.

Rules and Regulations
of the Commission

The Commission may adopt such rules and regulations as are necessary to carry out the purpose and intent of this article.

Sec. 22.136.

Cooperation with the Commission

All Boards, Commissions, Departments and Officers of the City shall cooperate with the Commission in carrying out the spirit and intent of this article.

AMENDED PER ORDINANCE #159681
PUBLISHED FEBRUARY 25, 1985

**SECTIONS OF THE LOS ANGELES ADMINISTRATIVE CODE
PERTAINING TO THE CULTURAL HERITAGE COMMISSION**

ORDINANCE NO. 162103

An Ordinance amending Los Angeles Administrative Code Section 22.125.1 to temporarily prohibit demolition, substantial alteration or removal of properties which are being considered for designation as City Historic - Cultural Monuments.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1: Section 22.125.1 of the Los Angeles Administrative Code is amended to read as follows:

**Sec. 22.125.1. Temporary Stay of
Demolition, Substantial Alteration or
Removal Pending Designation.**

If the City Council proposes on its own initiative that a site, building or structure be included in the list of historical or cultural monuments, or the Commission determines that a proposed site, building or structure merits further consideration for inclusion in the list, then no permit for the demolition, substantial alteration or removal of that building, structure or site shall be issued, and no such site, building or structure regardless of whether a permit exists or does not exist, shall be demolished, substantially altered or removed, pending final determination by the City Council that such site, building or structure shall or shall not be included in the list. The owner of the site, building or structure shall notify the Commission, in writing, whenever application is made for a permit to demolish, substantially alter, or remove any such site, building or structure. The City Council shall act on the proposed inclusion to the list within 60 days of the Council or Commission action, whichever first occurs. The Council, by resolution, may extend the period for good cause for an additional 15 days. In acting on the proposed inclusion to the list, the Commission and the City Council shall proceed in accordance with Sections 22.126, 22.130 and 22.131.

EXCEPTION:

If the Commission finds that the proposed site, building or structure does not meet the requirements for designation as a cultural or historic monument, then the temporary prohibition on the issuance of a permit to demolish, substantially alter or remove said site, building or structure and the temporary prohibition on demolition, substantial alteration or removal of said site, building or structure shall terminate, except when a site, building or structure

was proposed by the Council on its own initiative for inclusion in the list.

Sec. 2. The purpose of this Ordinance is to clarify the present provisions of Los Angeles Administrative Code Section 22.125.1. It was Council's intent in adding that Section to prohibit the demolition, substantial alteration or removal of buildings while said buildings were under consideration to become City Historic-Cultural Monuments. Since the adoption of Section 22.125.1, City staff members have interpreted and implemented the provisions accordingly. However, a dispute has arisen as to whether Section 22.125.1 applies in a case where property under consideration is the subject of an existing building permit for demolition, substantial alteration or removal. The purpose of this Ordinance amending Section 22.125.1 is to eliminate any dispute over this issue by making clear the Council's intention that properties under consideration for inclusion in the list of City Historic-Cultural Monuments should not be demolished, substantially altered, or removed under such circumstances.

Sec. 3. URGENT CLAUSE: The City Council hereby finds this Ordinance is required for the immediate preservation of the public peace, health and safety in that there are sites currently under consideration for inclusion in the City's list of Historic-Cultural Monuments which are occupied and the residents and tenants who currently occupy those buildings may be displaced. The Ordinance is urgently needed to prevent said displacement and possible disturbance of the peace caused by attempted evictions or demolitions before the Council has had an opportunity to consider and act on these matters.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles on March 13, 1987 and was passed at its meeting of March 20, 1987 by a vote of not less than three-fourths of its members.

Approved March 20, 1987 ELIAS MARTINEZ,
City Clerk
By Edward A. Ashdown, Deputy

File No. 87-0169
Tom Bradley, Mayor

Pasadena Municipal Historic Preservation Ordinance

nominated the member to the vacant office, or by his/her successor, in the same manner as set forth in Section 2.70.030. (Ord. 6229 § 2 (part), 1987)

2.70.060 Election of officers.

At the first meeting of the committee, and thereafter at its first meeting of each subsequent year, the members shall elect a chair, a vice chair and secretary. In the absence or disability of the chair and vice chair, the committee may designate a temporary chair. (Ord. 6229 § 2 (part), 1987)

2.70.070 Meetings—Records.

A. The committee shall meet at least once a month. All its meetings shall be held in accordance with the Ralph M. Brown Act and shall be open to the public except as provided by law. Special meetings may be called by the chair or a majority of the committee.

B. Five members of the committee shall constitute a quorum on all matters to come before the committee which are necessary or convenient to carry out the purposes and provisions of the Housing Authorities Law (Health and Safety Code Section 34310 et seq.). On all other matters to come before the committee, only 4 members of the committee shall constitute a quorum. No action of the committee shall be valid without a majority vote unless a different rule is specified herein.

C. The committee shall keep a record, which shall be available for public inspection, of all of its resolutions, proceedings and other actions. (Ord. 6319 § 16, 1989; Ord. 6229 § 2 (part), 1987)

2.70.080 Bylaws.

The committee shall adopt and amend, by the affirmative vote of 4 members, bylaws for the carrying out of its function and the conduct of the committee's business consistent with this chapter. Such bylaws shall be submitted to the board of directors and shall not become effective until approved and ordered filed by the board. (Ord. 6229 § 2 (part), 1987)

2.70.090 Annual report.

The committee shall submit an annual report and

workplan to the board of directors no later than October 31st of each year. Attendance records of members shall be included as part of the annual report. (Ord. 6229 § 2 (part), 1987)

2.70.100 Disclosure requirements.

Members of the committee shall be required to file annual statements of economic interest pursuant to the city's Conflict of Interest Code. (Ord. 6229 § 2 (part), 1987)

2.70.110 Purpose and functions.

A. The purpose of the committee is to review and make recommendations on all matters to come before the community development commission prior to commission action, except emergency matters, and matters which the commission, by resolution, excludes from committee review and recommendation.

B. The committee has all the powers of the commission as set forth in Health and Safety Code Section 33000 et seq., and Chapter 2.10 of this title, except the power to:

1. Sue and be sued;
2. Sell property;
3. Delegate authority to redevelop in the city to another redevelopment agency;
4. Contract with other public agencies;
5. Acquire property by purchase, lease, gift or eminent domain;
6. Borrow money for redevelopment purposes;
7. Finance housing construction and rehabilitation;
8. Such other powers as shall be withheld by ordinance of the board of directors or resolution of the commission. (Ord. 6229 § 2 (part), 1987)

Chapter 2.75

CULTURAL HERITAGE COMMISSION

Sections:

- | | |
|----------|-----------------------------------|
| 2.75.010 | Short title. |
| 2.75.020 | Establishment. |
| 2.75.030 | Membership—Appointment and terms. |

2.75.040	Qualifications.	2.75.290	Obligations and consequences upon demolition of specified structures without a certificate of appropriateness.
2.75.050	Absences and vacancies.	2.75.300	Additional remedies for alteration of specified structures without required approvals.
2.75.060	Election of officers.	2.75.310	Designation of historic signs.
2.75.070	Meetings—Records.	2.75.320	Violations.
2.75.080	Rules and regulations.	2.75.330	Public safety exception.
2.75.090	Annual report.		
2.75.100	Disclosure requirements.		
2.75.110	Purpose and functions.		
2.75.120	Definitions.		
2.75.125	General procedures.		
2.75.130	Criteria for designating landmarks.		
2.75.140	Procedure for designating landmarks and historic treasures.	2.75.010	Short title.
2.75.150	Maintenance of landmarks and historic treasures.		This chapter shall be known as the "Cultural Heritage Commission Ordinance." (Ord. 6229 § 2 (part), 1987)
2.75.170	Criteria for designating a Pasadena historic treasure.	2.75.020	Establishment.
2.75.180	Demolition, relocation or alteration of a historic treasure.		There is created and established a commission of the city to be known as the "cultural heritage commission" and hereinafter called "commission." (Ord. 6229 § 2 (part), 1987)
2.75.200	Demolition, relocation or alteration of designated landmarks, and the works of Greene and Greene.	2.75.030	Membership—Appointment and terms.
2.75.210	Demolition, relocation or significant alteration of a structure over 50 years old.		A. The commission shall consist of 7 members. Each of the 7 directors shall nominate 1 member. All nominations are subject to ratification by the board of directors.
2.75.220	Replacement building for 50 year old structures.		B. Members shall be appointed for a term of 3 years, and shall serve no more than 2 consecutive terms. A term of less than 1 year shall not be considered a full term. Terms expire on June 30th of the applicable years. A member shall continue in office for the term for which he/she was appointed or until his/her successor is appointed. No member who has served 2 consecutive terms shall be eligible for reappointment to the commission prior to the passage of a 2 year interval.
2.75.225	Special findings for unreinforced masonry buildings and structures.		
2.75.225	Appeals.		
2.75.230	Notification of changes in significant buildings.		
2.75.240	Historic easements on facades.		
2.75.250	Notification of zoning changes.		
2.75.260	Fees.		
2.75.270	Suspension of pending action.		
2.75.280	Incentives for preserving cultural resources.		

C. If a member ceases to reside in the city prior to the expiration of a term, the member may complete the term only upon approval by the board of directors pursuant to Section 2.45.020.

D. Any member of the commission may be removed by the board of directors at its pleasure. (Ord. 6229 § 2 (part), 1987)

2.75.040 Qualifications.

A. All members shall be residents of the city; provided however, that a person nominated by a director need not reside in the director's district.

B. All members shall be conversant with Pasadena's historical, architectural and cultural heritage. (Ord. 6229 § 2 (part), 1987)

2.75.050 Absences and vacancies.

A. In the event a member has 3 consecutive unexcused absences from meetings of the commission, the board of directors may declare the office of such member vacant. The staff to the commission shall advise the secretary to the mayor of any member with 3 consecutive unexcused absences. The chair of the commission may excuse absences.

B. Vacancies, whether scheduled or unscheduled, shall be filled by the person who nominated the member to the vacant office, or by his/her successor, in the same manner as set forth in Section 2.75.030. (Ord. 6229 § 2 (part), 1987)

2.75.060 Election of officers.

At the first meeting of the commission, and thereafter at its first meeting of each subsequent year, the members shall elect a chair and a vice chair. In the absence or disability of the chair and vice chair, the commission may designate a temporary chair. (Ord. 6229 § 2 (part), 1987)

2.75.070 Meetings—Records.

A. The commission shall meet at least once a month and all its meetings shall be held in accordance with the Ralph M. Brown Act and shall be open to the public except as provided by law. Special meetings may be called by the chair or a majority of the commission.

B. Four members of the commission shall constitute a quorum. No action of the commission shall be valid without a majority vote unless a different rule is specified herein.

C. The commission shall keep a record, which shall be available for public inspection, of all of its resolutions, proceedings and other actions. (Ord. 6229 § 2 (part), 1987)

2.75.080 Rules and regulations.

The commission shall adopt and amend, by the affirmative vote of 4 members, rules and regulations for the conduct of the commission's business consistent with this chapter. Such rules and regulations shall be submitted to the board of directors and shall not become effective until approved and ordered filed by the board. (Ord. 6229 § 2 (part), 1987)

2.75.090 Annual report.

The commission shall submit an annual report and workplan to the board of directors no later than October 31st of each year. Attendance records of members shall be included as part of the annual report. (Ord. 6229 § 2 (part), 1987)

2.75.100 Disclosure requirements.

Members of the commission shall be required to file annual statements of economic interest pursuant to the city's Conflict of Interest Code. (Ord. 6229 § 2 (part), 1987)

2.75.110 Purpose and functions.

A. The purpose of the commission is to recognize, protect and promote the retention and use of landmarks and landmark districts in the city and to promote awareness of Pasadena's unique heritage. The board of directors declares that the recognition, preservation, protection and use of cultural resources are required in the interest of the health, prosperity, social and cultural enrichment, and general welfare of the people. The purpose of this chapter is to:

1. Safeguard the heritage of the city by preserving improvements and natural features which reflect elements of the city's cultural history;

2. Encourage public understanding and involvement in the unique architectural and environmental heritage of the city through educational programs;

3. Strengthen civic pride in the beauty and notable accomplishments of the past, to promote their continued use today and encourage excellence in the building of the future;

4. Protect and enhance the city's attractions to residents seeking a pleasant way of life, tourists and visitors, and thereby, to support and stimulate business and industry;

5. Enhance the visual and aesthetic character, diversity and interest of the city;

6. Promote the private and public use and preservation of historic districts and structures for the education, appreciation and general welfare of the people;

7. Stabilize and improve property values;

8. Strengthen the economy of the city;

9. Take whatever steps are reasonable and necessary to safeguard the property rights of the owners whose property is declared to be a landmark or is located in an area designated as a landmark district.

B. The commission shall have the following powers and duties in addition to those otherwise provided in this chapter:

1. To conduct a continuing survey of all cultural resources in the city which the commission, on the basis of information available or presented to it, has reason to believe may be eligible for designation as landmarks or landmark districts or structures of merit;

2. To recommend to the board that certain areas, places, buildings, structures, natural features, works of art or similar objects having a significant historical, cultural, architectural, archeological, community or aesthetic value as part of the heritage of the city be designated as a landmark, or that the area be considered as a potential landmark district as provided in the zoning plan and code;

3. To keep current and publish a register of landmarks, landmark districts and structures of merit;

4. To encourage public understanding of and involvement in the unique architectural and environ-

mental heritage of this city through educational and interpretative programs. Such programs may include lectures, tours, walks, reports or publications, films, open houses and special events;

5. To explore means for the protection, retention and use of any designated or potential landmark, including but not limited to, appropriate legislation and financing, such as encouraging independent funding organizations or private local, state or federal assistance;

6. To submit annually a proposed budget to the city manager covering personal services, supplies and equipment necessary for the performance of its duties;

7. To work closely with the planning commission, in order to assure that environmental changes will be orderly and will not damage the cultural integrity of the city;

8. To encourage private efforts to acquire property and raise money on behalf of cultural preservation; however, the commission is specifically denied the power to acquire any property or interest therein for or on behalf of itself or the city;

9. To recommend and encourage the protection, enhancement, appreciation and use of structures of merit so as to emphasize their importance in the life style of Pasadena. The commission may take such steps as it deems desirable to recognize these structures including, but not limited to, listing, certificates, letters or plaques;

10. To render advice and guidance on any structure as time permits and upon request of the property owner. By way of example, but not by way of limitation, such advice might relate to painting, colors, materials, fencing, landscaping, lighting fixtures or restoration. This advice shall not be construed to impose any controls, but shall be offered in a spirit of friendly help;

11. To participate in revisions of the historic and cultural resources element of the general plan of the city;

12. To encourage cooperation between cultural heritage groups, public and private, and to encourage the development of such groups in the county and state;

13. To comment on all proposed rezoning, subdivisions (except condominiums), general plan amendments, redevelopment projects, significant public improvements and such other land use proposals or projects submitted by the director of planning, housing and community development as may require an environmental impact report under the provisions of the California Environmental Quality Act;

14. To make recommendations regarding proposed landmark or landmark districts within the area covered by a preliminary redevelopment plan prior to the approval of the plan by the planning commission as formulated by the community development commission and the planning commission;

15. To advise the design commission on alterations to publicly owned buildings of historic significance as required under subsections (B)(1)(a) and (B)(1)(b) of this section;

16. To review applications for certificates of appropriateness to demolish structures meeting the criteria set forth in this chapter;

17. To establish and maintain a written historic sign inventory.

C. The commission shall carry out design review activities and prepare and implement conservation plans for LD landmark overlay districts, as provided in Chapter 17.52 of this code, and otherwise assist in the preservation of the character of such districts. In furtherance thereof the commission shall:

1. Conduct design review and issue certificates of appropriateness;

2. Approve and administer conservation plans;

3. Prepare amendments to adopted conservation plans from time to time as deemed necessary;

4. Adopt regulations and procedures deemed necessary to carry out the policies of adopted conservation plans;

5. Adopt specific design policies and guidelines for individual landmark districts as deemed necessary to implement adopted conservation plans and facilitate the review of public and private projects. In the absence of such policies and guidelines or relevant design standards and criteria in an adopted conservation plan, the commission shall evaluate

proposed projects according to the current edition of the Secretary's Standards;

6. Within the Bungalow Heaven landmark district, the commission shall conduct its review of proposed improvements in McDonald Park, prior to consideration of any such improvements by the parks and recreation commission and the city council.

D. During hearings before the commission regarding a specific landmark district issue, a representative of the neighborhood association of the applicable landmark district (a "district representative") shall participate with equal voting rights.

1. Such representative(s) shall be selected as follows. The neighborhood association shall nominate a representative who resides and owns property in such district. If no neighborhood association exists within the landmark district, any resident property owner of such district may apply. If more than 1 neighborhood association exists within the landmark district, such associations shall jointly nominate the member; and if the associations cannot agree, each association shall nominate 1 person and the mayor shall select the nominee.

2. The appointment of the district representatives shall be subject to ratification by the board. The representatives may be removed by the board at its pleasure.

3. If a district representative ceases to reside in such district prior to the expiration of his/her term, he/she may complete the term only upon approval by the board pursuant to Section 2.45.020 of this code. The district representatives shall be subject to the provisions of Section 2.75.030, in the same manner as other commission members.

4. Each district representative shall be entitled to vote only on matters affecting his/her district, and not on commission rules and regulations or other matters of general interest. In the event that a matter affects more than one district, all district members whose districts are thereby affected may vote on such matter. (Ord. 6610 §§ 2A, 2B, 1994; Ord. 6560 § 2, 1993; Ord. 6505 § 2, 1992; Ord. 6229 § 2 (part), 1987)

2.75.120 Definitions.

Unless it is plainly evident from the content that a different meaning is intended, certain words and phrases used in this chapter are defined as follows:

A. "Alteration" means any change in the improvement.

B. "Certificate" means a certificate of appropriateness as required by this chapter.

C. "Director" means the director of planning and permitting, any successor individual, or the director's designee.

D. "Demolition" means an act or process that destroys or razes in whole or in part a building, structure or site or permanently impairs its structural integrity.

E. "Board" means board of directors of the city.

F. "Cultural resources" means areas, districts, streets, places, buildings, structures, outdoor works of art, natural features and other objects having a special historical, cultural, archeological, architectural, community or aesthetic value.

G. "Fixture" means a decorative or functional device permanently affixed to the site or the interior or exterior of a structure and contributing to its ability to meet landmark or treasure criteria. "Permanently affixed" includes, but is not limited to, attachment by screws, bolts, pegs, nails or glue, and may include such attachment methods as rope, glass or leather if such material is integral to the design of the device. Fixtures include, but are not limited to, lighting devices, murals, built-in furniture and cabinetry, paneling and molding, leaded glass or other decorative windows and decorative hardware.

H. "Improvement" means any place, building, structure or work of art or similar object constituting a physical addition of real property or any part of such addition.

I. "Landmark" means any site or improvement, manmade or natural, which has special character or special historical, cultural, architectural, archeological, community or aesthetic value as part of the heritage of the city or the United States and which has been designated as a landmark pursuant to the provisions of this chapter.

J. "Landmark district" means any area which contains a number of structures or natural features having a special character or special historical, cultural, architectural, archeological, community or aesthetic value, as set forth in the revised zoning ordinance, and designated as such by the board.

K. "Member" means any member of the cultural heritage commission.

L. "Natural feature" means any tree, plant life or geological element subject to the provisions of this chapter.

M. "Owner" means the person appearing as the owner of such improvement, natural feature or site on the last equalized assessment roll of the county of Los Angeles.

N. "Pasadena historic treasure" or "historic treasure" means any cultural resource which has outstanding character or outstanding historical, cultural, architectural, archeological, community or aesthetic value as part of the heritage of the city, region, state or the United States and which has been designated as a Pasadena historic treasure pursuant to the provisions of this chapter.

O. "Person" means any individual, association, partnership, firm, corporation, public agency or political subdivision.

P. "Removal" means the displacement from the site of a cultural resource of any device, feature, fixture, hardware, structural or decorative material contributing to the cultural, historic or architectural character of the cultural resource.

Q. "Secretary of the Interior's Standards" or "Secretary's Standards" means the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

R. "Site" means any parcel or portion of real property which has special character or special historical, cultural, archeological, architectural, community or aesthetic value.

S. "Structure" means a work made up of interdependent and interrelated parts in a definite pattern or organization.

T. "Structure of merit" means a structure not designated or eligible for designation as a landmark or a Pasadena historic treasure, that (1) is represen-

tative of an architectural style or period; (2) if altered, is not significantly diminished in character by such alterations; and (3) if deteriorated, is in preservable condition. In addition, a structure of merit must meet at least one of the following criteria:

1. It is a cultural resource that contributes to a designated or potentially eligible landmark district.
2. It is a cultural resource that contributes to a thematically related grouping of structures linked by design, type, plan or physical development.
3. It has architectural features that are rare or nonexistent on other structures in the city. (Ord. 6610 § 2C, 1994; Ord. 6492 §§ 1, 2, 1992; Ord. 6311 §§ 4, 5, 1989; Ord. 6229 § 2 (part), 1987)

2.75.125 General procedures.

A. All applications considered by the commission under this chapter shall be processed according to the standard procedure of Chapter 17.80 of this code, except as otherwise provided by this chapter. All applications for certificates of appropriateness for stays of demolition, relocation or alteration, except those related to an initial 45-day review period, shall be considered at a noticed public hearing, pursuant to the standard notice procedure of Chapter 17.80.

B. All applications under this chapter shall be filed with the director. The director shall specify the application requirements.

C. All decisions of the commission or staff shall be effective 10 days after the date of the decision, unless appealed or called for review prior to the effective date. Decisions to approve a certificate of appropriateness authorizing relocation or alteration of a structure shall be valid for 2 years from the effective date. The certificate may be renewed once for a maximum of 1 year by the director without notice or public hearing upon determination that the findings and conditions of the original approval still apply.

D. Notices of all decisions by the commission shall be provided to the applicant in writing, including the findings upon which the decision is based, promptly after the decision is made.

E. The requirements under this chapter for certificates of appropriateness are in addition to any other city permits required for a project, including without limitation, building, demolition, design review and use permits.

F. All applications shall be acted upon within 30 days of acceptance of a complete application.

G. The duration of the stays as provided in the chapter is a maximum. The commission shall conclude its deliberations and investigations as expeditiously as possible. The commission shall promptly terminate a stay if at any time the investigation reveals that preservation is not feasible, even if a stay has not expired. After the termination or expiration of a stay, the certificate of appropriateness shall be promptly issued. (Ord. 6610 § 2D, 1994)

2.75.130 Criteria for designating landmarks.

In considering a proposal to recommend to the board the designation of any cultural resource in the city as a landmark, the following criteria shall be applied:

A. Its character, interest or value as part of the heritage of the city;

B. Its location as a site of a significant historic event;

C. Its identification with a person or persons or groups who significantly contributed to the culture and development of the city;

D. Its exemplification of a particular architectural style or way of life important to the city;

E. Its exemplification of the best remaining architectural type in a neighborhood;

F. Its identification as the work of a person or persons whose work has influenced the heritage of the city, the state or the United States;

G. Its embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship;

H. Its relationship to other landmarks if its preservation is essential to the integrity of the landmark;

I. Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood;

J. Its potential of yielding information of archaeological interest;

K. Its integrity as a natural environment that strongly contributes to the well-being of the people of the city. (Ord. 6229 § 2 (part), 1987)

2.75.140 Procedure for designating landmarks and historic treasures.

The commission, upon its own initiative or upon the request of any person or city agency, may propose the designation of any cultural resource in the city as a landmark or a Pasadena historic treasure and thereupon take the following actions:

A. A commission representative shall meet with the property owner in an effort to obtain such owner's written consent prior to initiation of the proposed designation.

B. At a noticed public hearing within 30 days of the date of the initiation or request, the commission shall review the application. Written notice of such hearing shall be sent by certified mail to the property owner, at least 14 days prior to the hearing date. At the hearing the commission shall determine if the cultural resource meets the specified criteria for designation as a landmark or historic treasure, as supported by substantial evidence in the record, including without limitation documents showing the historic, architectural or other significance. The commission shall make its recommendation following the hearing. If the commission determines that the structure does not meet the criteria, the process shall terminate and the property owner shall be notified of such termination without delay.

C. If the commission determines that the cultural resource warrants designation, the commission shall:

1. Notify the director and the planning commission in writing, of the proposed designation;

2. Submit a written recommendation to the city council, incorporating its reasons in support of the proposed designation. Such recommendation shall include written documentation of the property owner's consent to the proposed designation if such consent has been obtained.

D. The city council, upon receipt of a recommendation in support of a proposed designation,

shall set the matter for public hearing within 30 days of the date of filing of the recommendation and shall render its decision thereon within 30 days after the close of the hearing. Written notice of the hearing shall be provided to the owner of the property proposed for designation. Such notice shall be mailed at least 14 days prior to the hearing date. A reasonable opportunity for the owner or any interested party to be heard shall be provided at the hearing.

E. If the property is privately owned, the owner of the property may object to the designation of the property as a landmark or a historic treasure by filing with the city clerk a written statement setting forth the objection prior to the hearing. If an objection is made by the owner or, if there are multiple owners, by those owners having an interest greater than 50% of the assessed value of the property, the city council shall determine if the property is eligible for designation, but no declaration of its designation shall be recorded. An owner or an owner's successor in interest may thereafter withdraw an objection at any time by filing a statement withdrawing the objection. Written notice of such withdrawal shall be given to other property owners. A declaration for eligible properties shall be recorded whenever it is determined that the objections on file, and not withdrawn, do not exceed 50% of the assessed value of the property.

F. If no objections are received pursuant to subsection E above, the city council may approve the landmark or historic treasure designation, which approval shall be evidenced by a declaration of designation, executed by the mayor. The city clerk shall record the declaration in the office of the county recorder. (Ord. 6610 § 2E, 1994; Ord. 6229 § 2 (part), 1987)

2.75.150 Maintenance of landmarks and historic treasures.

A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of any designated landmark that does not involve a change in design, material, color or appearance thereof; nor the repair

of an unsafe or dangerous condition as provided in Section 2.75.330.

B. Every landmark and historic treasure shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve it against decay and deterioration to the extent practicable. (Ord. 6610 § 2F, 1994; Ord. 6229 § 2 (part), 1987)

2.75.170 Criteria for designating a Pasadena historic treasure.

A. In considering a proposal to recommend to the board the designation of any cultural resource in the city as a Pasadena historic treasure, the commission shall find that the cultural resource meets one or more of the criteria set forth in this section and, additionally, must be of regional, state or national significance. Significant interiors of structures may be designated individually or in their relation to the structure as a whole. The criteria are as follows:

1. Its location as the site of a historic event having major significance to the city, state or the United States;

2. Its identification with a person or persons who have made a significant social, cultural or scientific contribution to the city, state or the United States;

3. Its quality as one of the finest examples in the city of the work of an architect of major importance;

4. Its identification as the work of a person or persons whose work has exerted a major influence on the heritage of the city, the state or the United States;

5. Its exemplification of an extraordinary class of architectural design, detail, materials or craftsmanship;

6. Its potential of yielding archaeological information of major importance;

7. Its integrity as a natural environment that has made a major contribution to the well-being of the people of the city. (Ord. 6610 § 2H, 1994; Ord. 6229 § 2 (part), 1987)

2.75.180 Demolition, relocation or alteration of a historic treasure.

A. No person may demolish, relocate or alter a historic treasure without first obtaining a certificate of appropriateness from the commission. An application for a certificate shall be filed with the director and transmitted to the commission for action.

B. The commission shall deny the application for a certificate if it finds that the proposed work does not comply with the Secretary's Standards.

C. If the commission's denial of a certificate for a historic treasure is appealed to the city council, the council may reverse the commission's decision only upon finding that denial of the applicant's request would impose extreme hardship, or that the commission has misapplied the Secretary's Standards. (Ord. 6610 § 2I, 1994; Ord. 6229 § 2 (part), 1987)

2.75.200 Demolition, relocation or alteration of designated landmarks, and the works of Greene and Greene.

A. Any person wishing to demolish, relocate or alter a designated landmark, or to demolish, relocate, alter or remove exteriors or fixtures from any structure or portion thereof designed by the firm of Greene and Greene, including works of Charles Greene or Henry Greene, must first obtain a certificate of appropriateness from the commission. An application for a certificate shall be filed with the director and transmitted to the commission for action.

B. In considering the application the commission shall make preliminary findings with respect to whether the proposed work is in conformance with the Secretary's Standards. If the commission finds the proposed work is in conformance with the Standards, the director shall issue the certificate. If the commission finds the proposed work is not in conformance with the Standards, it may require an initial review period not to exceed 45 days from the date of the meeting.

C. During the 45-day review period, the commission shall investigate the feasibility of preservation of the site, structure or fixtures, and shall take

such steps within the scope of its powers and duties as it determines are necessary for preservation.

D. No later than the end of 45 days, the commission shall review the progress made towards preservation of the site, building or fixtures. At this review, the commission shall determine if additional time is needed to accomplish preservation and may impose an initial stay on issuance of the certificate not to exceed 180 days.

E. Prior to the end of the initial 180-day stay, the commission shall review again the progress made towards preservation of the site, building or fixtures. If such preservation has not been accomplished, but the commission determines that it may be accomplished thereafter, the commission may extend the stay for an additional period not to exceed 180 days. When imposing a second 180-day stay, the commission shall set forth the reasons for the stay and describe the progress to date of the steps to preserve the site, building or fixtures. Any such extension shall be supported by findings that such extension is solely to allow the completion of acts reasonably likely to achieve preservation.

F. The commission may waive all or a portion of the required stay period if it determines that the alteration or relocation is undertaken subject to conditions assuring the continued maintenance of the historic, architectural or cultural integrity of the site, building or fixtures. For designated landmarks only, the commission may reduce the stay period in any case where the owner would suffer extreme hardship, not including loss of profit, unless a reduction in the required period was allowed. (Ord. 6610 § 2L, 1994; Ord. 6229 § 2 (part), 1987)

2.75.210 Demolition, relocation or significant alteration of a structure over 50 years old.

A. No person shall demolish, relocate, or significantly alter a structure over 50 years old without first obtaining a certificate of appropriateness pursuant to this section. An application for the certificate shall be filed with the director. The director shall forward the application to the commission, which shall determine if the structure meets the criteria for

a structure of merit or a landmark under this chapter.

B. The certificate of appropriateness shall be issued without further review if:

1. The structure does not meet the criteria for either a structure of merit or a landmark under this chapter; or

2. The structure meets the criteria for a structure of merit, but the application proposes only alteration or relocation of the structure; or

3. The application proposes demolition, and the structural integrity of the structure or the site conditions would preclude relocation.

C. If the certificate is not issued pursuant to subsection B above, the commission may require an initial 45-day review period for the certificate if:

1. The structure meets the criteria for a structure of merit, is used or was originally constructed as a residence, and the application proposes demolition; or

2. The structure meets the criteria for a landmark.

During the 45-day review period, the commission shall investigate preservation of the structure, including retention or alteration consistent with the Secretary's Standards.

D. No later than the end of 45 days, the commission shall review the progress made towards preservation. If additional time is needed to accomplish preservation of the structure, the commission may impose an initial stay on issuance of the certificate not to exceed 180 days. The stay shall be terminated at any time if the commission determines that preservation is not feasible.

E. Prior to the end of the initial 180-day stay, the commission shall review again the progress made towards preservation. If preservation has not been accomplished, but the commission determines that it may be accomplished thereafter the commission may extend the stay for an additional period not to exceed 180 days, but only if the structure meets the criteria for a landmark. Such extension shall be supported by a finding that the extension is solely to allow the completion of acts reasonably likely to achieve preservation of the structure.

F. Prior to issuance of a certificate of appropriateness for demolition of a structure that meets the criteria for a landmark or a structure of merit, the applicant shall provide to the director, at the applicant's sole cost, complete photo-documentation of archival quality of the structure to be demolished. (Ord. 6610 § 2M, 1994; Ord. 6492 §§ 3—5, 1992; Ord. 6229 § 2 (part), 1987)

2.75.220 Replacement building for 50 year old structures.

A. No permit to demolish a building or structure over 50 years old may be issued unless there has been issued a building permit for a replacement structure or project for the property involved.

B. An applicant for a demolition permit may apply to the commission for relief from the requirements of this section. The commission shall grant relief if it finds that demolition without replacement will not result in harm to the public. Harm to the public includes and shall be found if the loss of the structure without replacement results in the loss of low-income housing stock which will not be replaced, is likely to result in nuisance uses of the vacant property, or has a significant adverse visual impact on the neighborhood.

C. At the discretion of the director, an application under this section may be combined and processed concurrently with an application for a certificate of appropriateness. (Ord. 6610 § 2N, 1994; Ord. 6229 § 2 (part), 1987)

2.75.225 Special findings for unreinforced masonry buildings and structures.

A. When reviewing applications for a certificate of appropriateness to demolish an unreinforced masonry building (a building constructed of unreinforced masonry bearing wall construction built prior to 1934), the commission may only deny a request to demolish a URM building if it makes all of the following findings:

1. The building is a qualified historic building as defined in Section 14.06.020 of this code;

2. Denial of the demolition request does not deny the owner all economically beneficial or productive use of the property.

B. If the commission cannot make these findings, the building official shall issue the demolition permit being requested if it otherwise complies with the law governing the issuance of demolition permits.

C. If demolition permission is not granted pursuant to the applicable procedure, the building must be retrofitted according to the schedule contained in Chapter 14.06 of this code. (Ord. 6560 § 3, 1993)

2.75.228 Appeals.

A. The following decisions by the commission under this chapter may be appealed by any interested party to, or may be called for review by, the city council as provided in Chapter 17.104 of this code: decisions regarding relief from the replacement building permit requirement; impositions of building prohibitions for unauthorized demolitions under Section 2.75.290; approval, conditional approval or denial of a certificate of appropriateness, except for imposition of a 45-day review period; and decisions regarding placement of a sign on the historic sign inventory.

B. The appeal shall be considered by the council at a noticed public hearing, according to the standard notice provisions of Chapter 17.30 of this code. Any interested person may address the council and present evidence as to why the commission's decision should be upheld or reversed. The council may reverse or affirm the decision in whole or in part, and may impose conditions on the application which were not considered by the commission. (Ord. 6610 § 2O, 1994)

2.75.230 Notification of changes in significant buildings.

The commission shall be notified in writing by the director of planning, housing and development services of any plans to alter materially or redecorate exterior or interior features of any significant buildings owned by the city or other public entities so that the commission may study such plans and

make recommendations to the director of planning, housing and development services. Such notification shall be received by the commission not less than 45 days prior to publication of a notice inviting bids for such work. This section shall not apply to any building owned by the community development commission or hereafter acquired by that commission. This section shall not apply to the Gamble House, the Grace Nicholson Building, the Wrigley House, the Rose Bowl, City Hall or the Pasadena Center Complex; provided, however, that the director of planning, housing and development services shall promptly furnish to the commission a copy of each agenda and the minutes of all meetings of the design commission of the city. (Ord. 6229 § 2 (part), 1987)

2.75.240 Historic easements on facades.

Historic easements on the facades of buildings designated as landmarks or structures of merit may be acquired by the city through purchase, donation or condemnation. An historic easement would include any easement, restriction, covenant or condition running with the land designed to preserve or maintain the significant features of such landmarks or structures. (Ord. 6229 § 2 (part), 1987)

2.75.250 Notification of zoning changes.

A written notice of any hearings on a proposed zone change shall be given to the commission not less than 30 days prior to the hearings so that the commission may make its recommendations thereon to the director of planning, housing and development services. (Ord. 6229 § 2 (part), 1987)

2.75.260 Fees.

The board shall by resolution prescribe fees for all applications, reviews and appeals authorized by this chapter. (Ord. 6229 § 2 (part), 1987)

2.75.270 Suspension of pending action.

The board may repeal any landmark ordinance or suspend any pending action initiated under this chapter which affects property covered by agreement upon approval by the board of any disposition and

development agreement, participation agreement, lease or other agreement submitted to the board by the community development commission. (Ord. 6229 § 2 (part), 1987)

2.75.280 Incentives for preserving cultural resources.

In order to carry out more effectively and equitably the purposes of this chapter, the board shall by resolution adopt a program of economic and other incentives to support the preservation, maintenance and appropriate rehabilitation of Pasadena historic treasures, landmarks, landmark districts and structures of merit. (Ord. 6229 § 2 (part), 1987)

2.75.290 Obligations and consequences upon demolition of specified structures without a certificate of appropriateness.

A. Demolition of any designated historic treasure, cultural heritage landmark and works of Greene and Greene, without compliance with this chapter is expressly declared to be a nuisance, and shall be abated by reconstructing or restoring the property to its original condition prior to the performance of work in violation of this chapter whenever possible. The owner of the property, within 30 days of notice from the director of planning, housing and development services that demolition has been performed in violation of this chapter, shall execute and record a covenant in favor of the city to do such reconstruction or restoration within 1 year of the date of such notice. The form of the covenant shall be subject to approval by the city attorney, and shall run with the land. Upon application to the cultural heritage commission, the time may be extended by the commission, if the owner shows the work cannot reasonably be performed within 1 year. If the owner refuses to execute and record such covenant, then the city may cause such reconstruction or restoration to be done, and the owner shall reimburse the city for all costs incurred in doing the work. The cost of the work performed by the city shall constitute a lien against the property on which the work is performed. Restoration or reconstruction may only be

required when plans or other evidence is available to effect the reconstruction or restoration to the satisfaction of the director of planning, housing, and development services.

B. If a structure is demolished without a certificate of appropriateness as required by this chapter, and is not restored or reconstructed as required by subsection A above, no building or construction related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a specified time period, as follows: for 3 years, if the structure was over 50 years old; for 4 years, if the structure met the criteria for a structure of merit; for 5 years if the structure was a work of Greene and Greene, a historic treasure, a designated landmark, or met the criteria for a landmark. For purposes of this section, the demolition shall be presumed to have occurred on the date the city has actual knowledge of the demolition. The owner shall have the burden of proving a different date if one is claimed.

C. The director of planning, housing, and development services shall cause notice that this section is applicable to property to be served by mail on the person shown as the owner on the rolls of the tax assessor, and on any other person known to have an interest in the property, as soon as practicable after having knowledge that the provisions of this section are applicable to property. The date the city first had actual knowledge of the demolition shall be stated in the notice. The provisions of this subsection are directory only.

D. The decision of the director that this section is applicable to property may be appealed by the property owner to the commission, according to the procedures of this chapter. The commission may grant relief from the requirements of this section if the demolition in violation of this section was not done to any of the following:

1. Any building or structure contributing to a designated landmark district;
2. A building or structure eligible for landmark status either individually or as part of a district;

3. A building or structure listed or eligible for listing in the National Register of Historic Places, either individually or as part of a district;

4. Any cultural resource determined to have historic significance.

E. All property subject to the provisions of subsection B of this section shall be maintained in an orderly state. The owner shall maintain all existing trees and landscaping on the property, and, when appropriate shall sod and seed the property, or otherwise install planting and landscaping materials in a manner satisfactory to the city's zoning administrator. Any new construction on the property after the time period within which building and other development permits may not be issued shall be subject to design review by the design commission with recommendations from the cultural heritage commission to be received by the design commission prior to rendering decisions on the design of new development. (Ord. 6610 § 2P, 1994; Ord. 6311 § 1, 1989)

2.75.300 Additional remedies for alteration of specified structures without required approvals.

A. The alteration of a designated cultural heritage landmark, a designated historic treasure, of any building, structure, exterior or fixture designed by the firm of Greene and Greene, including the works of Charles Greene or Henry Greene, or of any building in the central district listed in the city's architectural and historic inventory, without obtaining required approvals, if applicable, of the cultural heritage commission or design commission, is expressly declared to be a nuisance, and shall be abated by restoring the property to its appearance prior to the performance of the work without the required approval. The owner of the property, within 30 days of notice from the director of planning, housing, and development services that demolition has been performed in violation of this chapter, shall execute and record a covenant in favor of the city to do such reconstruction or restoration within 1 year of the date of notice. The form of the covenant shall be subject to approval by the city attorney, and shall

run with the land. Upon application to the cultural heritage commission, or design commission, whichever is applicable, the time may be extended. All restoration shall be performed in accordance with the Secretary of Interior's Standards. If the owner refuses to execute and record such covenant, then the city may cause such reconstruction or restoration to be done, and the owner shall reimburse the city for all costs incurred in doing such work. The cost of the work performed by the city shall constitute a lien against the property on which the work is performed. Restoration or reconstruction may only be required when plans or other evidence is available to the city, from which the prior appearance of the building or structure can be determined.

B. In the event the appearance of the building or structure prior to the unapproved work cannot be determined, the owner shall obtain all required permits for the alteration. All work authorized by such permits shall comply with the Secretary of Interior's Standards, and shall be reviewed by the director of housing, planning, and development services for compliance. Pursuant to Section 1.24.030 of this code, each day the alteration exists without approval or a valid building permit shall constitute a separate offense. (Ord. 6311 § 2, 1989)

2.75.310 Designation of historic signs.

A. A sign may be designated historically significant by the cultural heritage commission if it was installed prior to January 1, 1960, and meets one or more of the following criteria:

1. The sign is exemplary of technology, craftsmanship or design of the period when it was constructed, uses historic sign materials and means of illumination, and is not significantly altered from its historic period. Historic sign materials shall include metal or wood facings, or paint directly on the facade of a building. Historic means of illumination shall include incandescent light fixtures or neon tubing on the exterior of the sign. If the sign has been altered, it must be restorable to its historic function and appearance.

2. The sign is integrated into the architecture of the building. Such signs shall include but not be

limited to sign pylons on buildings in the Moderne style.

3. A sign not meeting criteria 1 or 2 above may be considered for inclusion in the inventory if it demonstrates extraordinary aesthetic quality, creativity, or innovation, and findings to that effect are made by the cultural heritage commission.

B. The owner of any sign may request that said sign be reviewed for significance in the historic sign inventory upon written application to the cultural heritage commission.

C. Placement on the historic sign inventory does not preclude the owner from demolishing or removing the sign. (Ord. 6610 § 2Q, 1994; Ord. 6311 § 3, 1989)

2.75.320 Violations.

Pursuant to Section 512 of the Charter of the city, and Chapter 1.24 of this code, violation of this chapter may be charged by the city prosecutor as misdemeanors, and be punished accordingly. Such criminal penalties are cumulative and not exclusive to any legal or equitable remedies for the violation. (Ord. 6311 § 7, 1989)

2.75.330 Public safety exception.

Notwithstanding any other provision of this chapter, the director may authorize permits to demolish, relocate, remove or significantly alter a sign, building, structure or fixture, if such a permit is necessary for the preservation of the health, safety or welfare of the public. Approval pursuant to this subsection shall be limited to the work necessary to protect the public. (Ord. 6610 § 2R, 1994)

Chapter 2.80

DESIGN COMMISSION

Sections:

2.80.010	Short title.
2.80.020	Establishment.
2.80.030	Membership—Appointment and terms.

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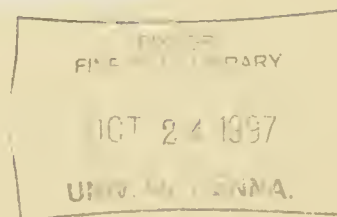
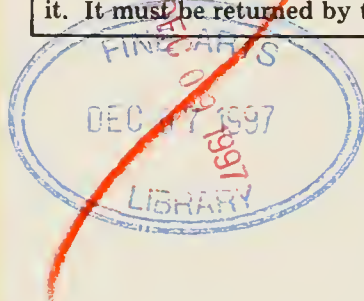
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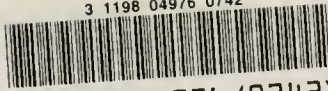
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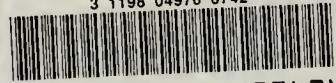


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